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## A Particular Social Group in Asylum Proceedings— The Fifth Circuit’s Categorical Ban on Victims of Domestic Violence

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# A PARTICULAR SOCIAL GROUP IN ASYLUM PROCEEDINGS—THE FIFTH CIRCUIT’S CATEGORIAL BAN ON VICTIMS OF DOMESTIC VIOLENCE

*Meagan Maloney\**

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## I. SUMMARY

IN *Gonzales-Veliz v. Barr*, the Fifth Circuit Court of Appeals addressed whether it would recognize “Honduran women unable to leave their relationship” as “a particular social group” warranting asylum under the Immigration and Nationality Act (INA).<sup>1</sup> Relying on a controversial administrative opinion by then-Attorney General Sessions rather than addressing the individualized facts of the case, the court denied asylum for failure to state a cognizable particular social group.<sup>2</sup> The Fifth Circuit incorrectly held that the proffered social group was not cognizable, creating a blanket preclusion for groups seeking asylum based on domestic abuse that overturns years of immigration law precedent and runs contrary to the legislative intent expressed in the INA.

## II. BACKGROUND

In April 2015, Maria Suyapa Gonzales-Veliz, a native and citizen of Honduras, entered the United States and was apprehended at the border.<sup>3</sup> When the Department of Homeland Security sought to remove her, Gonzales-Veliz expressed her fear of returning to Honduras due to widespread gang violence and abuse at the hands of her ex-boyfriend, who she

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1. *Gonzales-Veliz v. Barr*, 938 F.3d 219, 231–32 (5th Cir. 2019).

2. *Id.* at 232.

3. *Id.* at 223.

had attempted to sue for failure to pay child support.<sup>4</sup> According to Gonzales-Veliz, the abuse was a direct result of the culture of machismo<sup>5</sup> and family violence in Honduras and the failure of Honduran police to protect her despite notifying them of the harm.<sup>6</sup> On one occasion of abuse, Gonzales-Veliz's ex-boyfriend came to her house threatening her with a gun.<sup>7</sup> The police came to stop the harassment but later returned the gun to her ex-boyfriend and notified Gonzales-Veliz that they could no longer help her due to lack of personnel and resources.<sup>8</sup>

As a result of Gonzales-Veliz's statements regarding the abuse, an asylum officer referred the matter to an immigration judge for adjudication of her claim.<sup>9</sup> The immigration judge denied Gonzales-Veliz's application for asylum, withholding of removal, and Convention Against Torture protection on the grounds that she "failed to demonstrate that she was harmed on account of a membership in a particular social group—Honduran women unable to leave their relationship"—and that she failed "to demonstrate that the Honduran government was unable or unwilling to protect her."<sup>10</sup> Alternatively, the immigration judge denied relief for lack of credibility and under the reentry bar for asylum, due to the fact that it was her second unlawful entry to the United States.<sup>11</sup> After the entry of judgment, Gonzales-Veliz appealed to the Board of Immigration Appeals (BIA).<sup>12</sup>

The BIA held in accordance with the immigration judge, finding that even if Gonzales-Veliz was credible, her testimony failed to bear its burden of proving that she belonged to the particular social group of Honduran women unable to leave their relationship or that the Honduran police demonstrated an inability to protect her.<sup>13</sup> Gonzales-Veliz then filed a petition for review in the Fifth Circuit and a motion for reconsideration before the BIA.<sup>14</sup> However, while her motion was pending, then-Attorney General Sessions issued a precedential administrative opinion<sup>15</sup> in

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4. *Id.* at 223, 225.

5. *Machismo*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/machismo> [<https://perma.cc/DK7Q-NPJH>] (defining "machismo" as "a strong sense of masculine pride" and "an exaggerated masculinity"); see also Sonia Nazario, *Someone Is Always Trying to Kill You*, N.Y. TIMES (Apr. 5, 2019), <https://www.nytimes.com/interactive/2019/04/05/opinion/honduras-women-murders.html> [<https://perma.cc/G6R7-YWFS>] (detailing the effects of machismo culture on Honduran women).

6. *Gonzales-Veliz*, 938 F.3d at 225.

7. See *id.*

8. *Id.*

9. *Id.* at 223; see also NAT'L IMMIGRANT JUSTICE CTR., BASIC PROCEDURAL MANUAL FOR ASYLUM REPRESENTATION AFFIRMATIVELY AND IN REMOVAL PROCEEDINGS 39-55 (Oct. 2017), available at <https://www.unhcr.org/5aa6cfac4.pdf> [<https://perma.cc/GX4K-LAYW>] (detailing the defensive asylum process from arrest to appeal).

10. *Gonzales-Veliz*, 938 F.3d at 223.

11. *Id.*

12. *Id.*

13. *Id.*

14. *Id.* at 224.

15. *Precedent Decisions*, U.S. CITIZENSHIP AND IMMIGR. SERVS., <https://www.uscis.gov/legal-resources/precedent-decisions> [<https://perma.cc/KTK7-C43J>] ("An Administrative Appeals Office (AAO) decision may be designated as a 'precedent decision' by the

*Matter of A-B-*, which held that “married women in Guatemala who are unable to leave their relationship” did not constitute a particular social group meriting asylum, thereafter precluding any likelihood of success for immigrants seeking asylum on the grounds of “private violence.”<sup>16</sup> Accordingly, Gonzales-Veliz’s motion for reconsideration was denied.<sup>17</sup>

Upon review, the Fifth Circuit affirmed the BIA’s denial of Gonzales-Veliz’s application.<sup>18</sup> Despite the fact that the Attorney General’s decision had recently been enjoined and vacated in part by a federal district court in the District of Columbia, the Fifth Circuit relied on *Matter of A-B-* in holding that Honduran women unable to leave their relationship “cannot constitute a particular social group” for purposes of asylum.<sup>19</sup> Specifically, the proffered social group was not cognizable because it “does not exist independently of . . . the harm” and “lacks particularity.”<sup>20</sup> Characterizing asylum claims based on domestic abuse as claims of “private violence,” the court noted that such “groups defined by their vulnerability to private criminal activity *likely* lack the particularity” required for asylum.<sup>21</sup>

### III. CURRENT STATE OF THE LAW

Under the INA, the three essential elements for establishing an asylum claim are: (1) membership in “a cognizable particular social group”; (2) “a nexus between the harm and membership in the particular social group”; and (3) an inability or unwillingness of the immigrant’s home-country government to protect the asylum seeker.<sup>22</sup> Prior to the decision in *Matter of A-B-*, the BIA clarified in multiple precedential opinions that a particular social group must be “(1) composed of members who share a common immutable characteristic, (2) defined with particularity, and (3) socially distinct within the society in question.”<sup>23</sup> Relying on this precedent, the BIA in *Matter of A-R-C-G-* granted asylum to a victim of domestic abuse based on the particular social group of “married women in

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joint approval of the Secretary of the Department of Homeland Security (DHS), the Board of Immigration Appeals, and the Attorney General. Precedent decisions are legally binding on the DHS components responsible for enforcing immigration laws in all proceedings involving the same issues. In addition, absent any controlling judicial precedent to the contrary, federal courts give greater deference to AAO precedent decisions, as well as to non-precedent and adopted decisions that follow the same legal reasoning of a precedent decision.”).

16. *Gonzales-Veliz*, 938 F.3d at 224; *Matter of A-B-*, 27 I. & N. Dec. 316, 319 (A.G. 2018).

17. *Gonzales-Veliz*, 938 F.3d at 224.

18. *Id.* at 236.

19. *Id.* at 232.

20. *Id.*

21. *Id.* at 231–32 (emphasis added) (quoting *A-B-*, 27 I. & N. Dec. at 335).

22. *Id.* at 228–29.

23. *Matter of A-R-C-G-*, 26 I. & N. Dec. 388, 392 (B.I.A. 2014); *see also* *Cece v. Holder*, 733 F.3d 662, 677 (7th Cir. 2013) (finding that young Albanian women who live alone constitute a particular social group); *Perdomo v. Holder*, 611 F.3d 662, 667–69 (9th Cir. 2010) (finding that “all women in Guatemala” may constitute a particular social group due to a high risk of femicide).

Guatemala who are unable to leave their relationship.”<sup>24</sup> In that case, the BIA found that gender, or in the alternative, marital status, may constitute a common immutable characteristic.<sup>25</sup> In addition, the proffered social group was defined with enough particularity and was socially distinct within the society due to un rebutted evidence of machismo and family violence in Guatemalan culture.<sup>26</sup>

With *Matter of A-R-C-G-* as binding precedent,<sup>27</sup> immigration judges in subsequent asylum proceedings continued to recognize similar social groups of married women and extended the protection to unmarried women as well.<sup>28</sup> That is, until then-Attorney General Sessions’ decision in *Matter of A-B-*, which overruled *Matter of A-R-C-G-* and effectively barred claims for asylum based on domestic violence.<sup>29</sup> In *Matter of A-B-*, the Attorney General rejected “El Salvadoran women who are unable to leave their domestic relationships where they have children in common” as a particular social group because defining a group solely by the persecution of its members “moots the need to establish actual persecution.”<sup>30</sup> Rejecting the so-called circular reasoning of the BIA in *Matter of A-R-C-G-*, the Attorney General stressed that the victim’s inability to leave was *created by* the harm rather than existing independently of it.<sup>31</sup> In addition, the social group lacked the requisite particularity “given that broad swaths of society may be susceptible to victimization” and lacked social distinction due to the highly individualized, rather than categorical, nature of domestic abuse.<sup>32</sup>

The *Matter of A-B-* decision drew quick criticism and was recently overruled in part by a federal district court case in the District of Columbia.<sup>33</sup> In *Grace v. Whitaker*, the district court held that all but two of the policies set forth in *Matter of A-B-* were arbitrary and capricious and violated the Administrative Procedure Act (APA) and the INA.<sup>34</sup> With regard to the particular social group analysis, the court held that *Matter of A-B-* created a “general rule that effectively bars the claims based on

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24. *A-R-C-G-*, 26 I. & N. Dec. at 388.

25. *Id.* at 392–93.

26. *Id.* at 393–94.

27. *Board of Immigration Appeals*, U.S. DEP’T OF JUSTICE, <https://www.justice.gov/eoir/board-of-immigration-appeals> [<https://perma.cc/33LH-YF2J>] (last updated Oct. 15, 2008) (“BIA decisions are binding on all DHS officers and immigration judges unless modified or overruled by the Attorney General or a federal court.”).

28. See Blaine Bookey, *Gender-Based Asylum Post-Matter of A-R-C-G-: Evolving Standards and Fair Application of the Law*, 22 SW. J. INT’L L. 1, 13 (2016) (citing CGRS Database Case No. 10796 (Immigration J. Dec. May 19, 2015); CGRS Database Case No. 11333 (Immigration J. Dec. Apr. 24, 2015); CGRS Database Case, No. 9730 (Immigration J. Dec. Apr. 2, 2015); CGRS Database Case No. 11302 (Immigration J. Dec. Jan. 20, 2015); CGRS Database Case No. 10283 (Immigration J. Dec. Jan. 15, 2015)).

29. *Matter of A-B-*, 27 I. & N. Dec. 316, 316 (A.G. 2018); see *Precedent Decisions*, *supra* note 15.

30. *A-B-*, 27 I. & N. Dec. at 326, 335.

31. *Id.* at 334–45.

32. *Id.* at 335–36.

33. *Grace v. Whitaker*, 344 F. Supp. 3d 96, 106 (D.D.C. 2018).

34. *Id.* at 146.

certain categories of persecutors (i.e. domestic abusers or gang members).”<sup>35</sup> In doing so, the new rule violated existing immigration laws by creating “an effective categorical ban” rather than conducting an individualized, case-specific analysis, as is required by the INA.<sup>36</sup> As a result, the district court in *Grace v. Whitaker* overruled the particular social group analysis in *Matter of A-B-* and enjoined courts from applying the Attorney General’s analysis in future cases.<sup>37</sup>

Disregarding the district court’s injunction, which is currently on appeal,<sup>38</sup> the Fifth Circuit relied on the particular social group rule set forth in *Matter of A-B-* to deny Gonzales-Veliz’s application for asylum based on domestic violence.<sup>39</sup> The court first noted that *Matter of A-B-* “did not create a categorical ban against groups based on domestic violence” and that the BIA did not interpret the decision as such in Gonzales-Veliz’s case.<sup>40</sup> Rather, the court viewed Gonzales-Veliz’s proffered social group as “substantially similar” to the group that was denied protection in *Matter of A-B-*.<sup>41</sup> Citing *Matter of A-B-*, the Fifth Circuit found that “Honduran women unable to leave their relationship [was] impermissibly defined in a circular manner.”<sup>42</sup> Rather than existing independently of the harm, the group was defined by it.<sup>43</sup> Additionally, Gonzales-Veliz’s social group “lack[ed] particularity because ‘broad swaths of society may be susceptible to victimization.’”<sup>44</sup> Finally, with regard to the social distinction element of the particular social group, the court held that Gonzales-Veliz’s claims of machismo culture “provide[d] no guidance or aid in discerning whether or how Honduran culture ‘perceives, considers, or recognizes’ women who are unable to leave their relationship” as a distinct, categorical group.<sup>45</sup> Thus, the Fifth Circuit upheld the BIA’s denial of Gonzales-Veliz’s application for failure to state a cognizable particular social group warranting a grant of asylum.<sup>46</sup>

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35. *Id.* at 126.

36. *Id.*

37. *Id.* at 125-26. The constitutionality of nationwide injunctions has come under attack in recent years. Although the Supreme Court of the United States has not yet spoken directly to the issue, Justice Thomas and Justice Gorsuch, in separate concurring opinions, have urged the Court to take up the question of their legality. *See* Dep’t of Homeland Sec. v. New York, 140 S. Ct. 599, 600 (2020) (Gorsuch, J., concurring) (mem.); *Trump v. Hawaii*, 138 S. Ct. 2392, 2424–29 (2018) (Thomas, J., concurring).

38. *Gonzales-Veliz v. Barr*, 938 F.3d 219, 228 (5th Cir. 2019) (“We cannot be hindered from performing our duty by an injunction in another jurisdiction that is currently being appealed and is predicated on a view of immigration law with which we disagree . . .”).

39. *Id.* at 232.

40. *Id.*

41. *Id.*

42. *Id.*

43. *Id.*

44. *Id.* (quoting *Matter of A-B-*, 27 I. & N. Dec. 316, 335 (A.G. 2018)).

45. *Id.*

46. *Id.*

## IV. ANALYSIS

The Fifth Circuit was incorrect in applying the principles from *Matter of A-B-* to Gonzales-Veliz's case because doing so breaks from existing BIA precedent and effectively creates a categorical ban on all asylum applications based on domestic violence, in violation of the APA and the INA. In the present case, the Fifth Circuit rejected the holding in *Matter of A-R-C-G-*, which recognized "married women in Guatemala who are unable to leave their relationship" as an accepted social group on the grounds that the government in that case did not contest the issue of particular social group, thereby "short-circuiting" that analysis.<sup>47</sup> The *Matter of A-R-C-G-* court did, however, address the particular social group issue extensively using existing case precedent recognizing similar groups, as well as a full analysis of the proffered social group under existing asylum law.<sup>48</sup> Under that analysis, the proffered social group was cognizable because it was immutable, particular, and socially distinct.<sup>49</sup> Under the INA, the decision in *Matter of A-R-C-G-* should have been binding precedent in "all proceedings involving the same issue or issues."<sup>50</sup> Nevertheless, the Attorney General, as well as the Fifth Circuit in the present case, declined to follow the BIA decision as binding precedent, resulting in substantial confusion for asylum seekers.<sup>51</sup> The confusion is particularly grave in cases like Gonzales-Veliz's, where an asylum seeker relies on precedential opinions in drafting her application only to have the law change significantly while review of the application is pending.<sup>52</sup>

In addition to added confusion for asylum seekers, the *Gonzales-Veliz* decision has the effect of precluding all cases based on domestic violence. The Fifth Circuit concludes that "[b]ecause the Attorney General said that 'there may be exceptional circumstances when victims of private criminal activity could meet these requirements,'" *Matter of A-B-* does not create a categorical ban; however, the court's analysis of the particular social group issue in *Gonzales-Veliz* proves otherwise.<sup>53</sup> Rather than address the individualized facts of the case before it, the Fifth Circuit upheld the BIA decision denying protection to the proffered social group merely because it was "substantially similar" to the group rejected in *Matter of A-B-*.<sup>54</sup> The court failed to point out any dissimilarities between Gonzales-Veliz's case and that of the asylum seeker in *Matter of A-B-*, and in

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47. *Id.* at 229; *Matter of A-R-C-G-*, 26 I. & N. Dec. 388, 388 (B.I.A. 2014).

48. *A-R-C-G-*, 26 I. & N. Dec. at 392-95.

49. *Id.*

50. *See Gonzales-Veliz*, 938 F.3d at 232 (citing 8 C.F.R. § 1003.1(g) (2019)).

51. *See id.* at 236; *Matter of A-B-*, 27 I. & N. Dec. 316, 316 (A.G. 2018). *See generally Practice Advisory: Applying for Asylum After Matter of A-B-*, NAT'L IMMIGRANT JUST. CTR. (Jan. 2019), available at <https://immigrantjustice.org/sites/default/files/content-type/page/documents/2019-01/Matter%20of%20A-B-%20Practice%20Advisory%20-%201.2019%20Update%20-%20Final.pdf> [<https://perma.cc/A8B6-M3PP>] (detailing the conflicting responses of circuit courts to the decision in *Matter of A-B-*).

52. *See Gonzales-Veliz*, 938 F.3d at 226.

53. *See id.* at 232.

54. *Id.*

doing so, failed to consider whether Gonzales-Veliz's case might constitute an "exceptional circumstance."<sup>55</sup> Courts employing a similar analysis in future cases, merely tracking the language from *Matter of A-B-* rather than reviewing the facts of each case on an individualized basis, will have the obvious effect of a categorical ban on all cases based upon similar social groups comprised of women, married or unmarried, who are suffering from unchecked domestic abuse in their home countries.

The categorical ban stemming from the decision in *Gonzales-Veliz* and like cases runs contrary to congressional intent expressed in the INA. The INA was amended in 1980 when Congress passed the Refugee Act designed "to bring the United States' domestic laws in line with" the United Nations Protocol Relating to the Status of Refugees (the Protocol).<sup>56</sup> Consistent with the Protocol, the INS requires "a case-specific factually intensive analysis for each alien."<sup>57</sup> Thus, a categorical rule effectively barring claims based on domestic abuse or other forms of private violence is inconsistent with the plain language of the INA and congressional intent to bring United States asylum law in line with the Protocol.<sup>58</sup> Moreover, the Fifth Circuit's categorical ban violates previous Department of Homeland Security procedure under which an asylum officer is required to "evaluate the entire scope of harm experienced by the applicant to determine if he or she was persecuted, taking into account the individual circumstances of each case."<sup>59</sup>

Congressional intent is of paramount importance to federal court review of agency decisions. The Supreme Court in *Chevron v. Natural Resources Defense Council* established a deferential test for judicial review of agency decisions, by which "legislative intent trumps executive implementation which in turn is given deference over judicial interpretation."<sup>60</sup> In the context of immigration proceedings, the Circuit Courts of Appeals are the first non-executive branch decision makers to review asylum claims, making adherence to the *Chevron* deference test of vital importance in preserving constitutional separation of powers.<sup>61</sup> Where Congress has directed an agency to act in a particular way, as Congress has here through the INA, a reviewing court should require agency compliance.<sup>62</sup> Nevertheless, the Fifth Circuit in *Gonzales-Veliz* failed to take account of the individualized review required by the INA, deferring in-

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55. *See id.*

56. *Grace v. Whitaker*, 344 F. Supp. 3d 96, 106 (D.D.C. 2018).

57. *Id.* at 126 (citing 8 C.F.R. § 208.30(e) (2019)).

58. *Id.*

59. *Id.* at 126 n.13.

60. *Chevron, U.S.A., Inc. v. Nat. Resources Def. Council, Inc.*, 467 U.S. 837 (1984); Maureen A. Sweeney, *Enforcing/Protection: The Danger of Chevron in Refugee Act Cases*, 71 ADMIN. L. REV. 127, 147 (2019).

61. Sweeney, *supra* note 60, at 171; *see also* Fatma E. Marouf, *Executive Overreaching in Immigration Adjudication*, 93 TUL. L. REV. 707, 707, 760–76 (2019) (analyzing the ways in which executive overreaching in immigration adjudication threatens constitutional and statutory rights).

62. *See Chevron*, 467 U.S. at 844.



stead to the Attorney General's administrative opinion, in direct violation of *Chevron*.<sup>63</sup>

Even assuming that the Fifth Circuit's *Gonzales-Veliz* decision does not create an absolute ban on all similar social groups, it is clear that the Fifth Circuit's interpretation of the particular social group requirement disproportionately disadvantages victims of domestic violence, often women and children, over other groups seeking asylum. The Fifth Circuit seems to say that the proffered social group is both too broad, opening "broad swaths of society" to victimization, and too narrow, reasoning that the individualized nature of domestic abuse restricts the ability of Honduran society to view its victims as a "distinct social group."<sup>64</sup> As a result, this court has created a nearly impossible standard for victims of domestic violence that fails to take account of the "unique and discrete issues not present in other particular social group determinations."<sup>65</sup>

Asylum claims based on domestic violence are unique in that they turn on a specific culture of machismo and family violence that is poorly understood in American culture but has significant roots in Latin American culture.<sup>66</sup> The sheer number of instances of domestic abuse in Latin American culture is evidence of machismo's pervasiveness in those countries.<sup>67</sup> The failure of American courts to recognize a culture of machismo and family violence should not preclude a finding of a "distinct social group" where victims of domestic violence are viewed as such in the victim's home country.<sup>68</sup> The court contradicts itself on this point when it recognizes the large number of asylum cases that might result if it acknowledges the widespread machismo culture in Honduras.<sup>69</sup> However, the court's fear of too many victims should not be used to heighten the standard of particularly for asylum seekers. Rather, it should highlight

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63. *Gonzales-Veliz v. Barr*, 938 F.3d 219, 234-35 (5th Cir. 2019) (quoting then-Attorney General Sessions in *Matter of A-B-*, the Fifth Circuit found that "nothing in the text of the [INA] supports the suggestion that Congress intended membership in a particular social group to be some omnibus catch-all for solving every heart-rending situation." (internal quotations omitted)).

64. *See id.* at 232.

65. *See Matter of A-R-C-G-*, 26 I. & N. Dec. 388, 394 (B.I.A. 2014).

66. *Id.* at 393; *see also* Nazario, *supra* note 5.

67. *A-R-C-G-*, 26 I. & N. Dec. at 393; *see also* U.N. Human Rights Council, Rashida Manjoo (Special Rapporteur), *Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences*, 5, U.N. Doc A/HRC/29/27/Add.1 (Mar. 31, 2015), available at <https://evaw-global-database.unwomen.org/-/media/files/un%20women/vaw/country%20report/america/honduras/honduras%20srvaw.pdf?vs=3000> [<https://perma.cc/CG8U-QFHC>] ("Femicides [in Honduras] have increased alarmingly in recent years and were highlighted as a major source of concern by all interlocutors. In 2012, 606 cases of femicides were reported, which represents, on average, 51 women murdered per month. According to preliminary statistics from official sources, 629 cases of femicide were registered in 2013. . . . It is reported that one in five cases of femicide occurs in the context of domestic or intrafamilial violence . . .").

68. *See Matter of M-E-V-G-*, 26 I. & N. Dec. 227, 244 (B.I.A. 2014) ("Evidence such as country conditions reports, expert witness testimony, and press accounts of discriminatory laws and policies, historical animosities, and the like may establish that a group exists and is perceived as 'distinct' or 'other' in a particular society.").

69. *See Gonzales-Veliz v. Barr*, 938 F.3d 219, 232 (5th Cir. 2019).

the need to return to individualized review of the specific facts of each case before the court.

## V. CONCLUSION

The Fifth Circuit's rejection of "Honduran women unable to leave their relationship" as a cognizable particular social group poses a significant and arguably insurmountable barrier for women seeking asylum based on domestic violence in their home countries. Rather than abide by congressional intent expressed in the INA, the Fifth Circuit relies on an administrative decision that overturned years of BIA and circuit court precedent mandating individualized review of asylum claims. Reliance on an administrative decision rather than express congressional direction violates the *Chevron* deference test and creates a concern for executive overreaching. This concern, already present in the area of asylum law, has been exasperated by an increase in the number of immigration cases decided by the Attorney General under the Trump Administration.<sup>70</sup> As a result, the recognition of a particular social group meriting asylum has become highly politicized, turning on the political preferences of the party in power rather than the facts of each individual case.

In addition to breaking with BIA precedent and undermining the legislative intent behind the INA, the decision fails to recognize the unique, cultural issues that distinguish victims of domestic abuse from other groups of asylum seekers. A culture of machismo and family violence in Latin American countries has been recognized by reports of the United Nations and should be similarly recognized by the United States judiciary. Accordingly, future courts addressing asylum claims by members of particular social groups based on domestic violence should return to the pre-*Matter of A-B*- framework and review cases on an individualized basis rather than abide by the Fifth Circuit's unprecedented categorical ban.

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70. Fatma Marouf, *Immigration Challenges of the Past Decade and Future Reforms*, 73 SMU L. REV. F. (forthcoming 2020) ("The asylum system was further eroded by former Attorney General Sessions, who interfered in immigration adjudication in an unprecedented way, deciding as many immigration cases in one year as the attorneys general under Bush and Obama did during eight-year periods.").

