

Notes

General Summary of the Affirmative

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.

General Summary of the Negative

The negative has several arguments to respond to this affirmative:

The Court Clog DA 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.

1AC

1AC — Gender Violence Advantage

Contention 1 is the Gender Violence Advantage.

First, a recent Justice Department 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>)

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.

Second, 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](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.

Third, 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 [STDs], depression, post-traumatic stress disorder [PTSD], social stigma, rejection, and isolation.**

Fourth, 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 [Modified for violent language.]

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 [Sexual assault] by a husband may be experienced as more devastating and the psychological harms may last longer than when rape [sexual assault] 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.

Fifth, 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.

Sixth, 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?

Finally, 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”).

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.

1AC — Solvency

Contention 2 is Solvency.

First, the 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.**

Second, 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.

Finally, 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>)

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.**

Advantage Extensions

They Say: “Doesn’t Protect Non-Women”

1NC # ___ — They Say “Plan Doesn’t Protect Non-Women,” but the plan *does* protect men if they’re being persecuted based on their gender.

And, women and girls tend to be the most vulnerable because of patriarchal domination. That’s Parish and Copelon.

We don’t need to solve *all* gender violence — the plan ends the global silencing of women experiencing abuse. That’s Enloe.

They Say: “Grouping All Women Bad”

1NC # ___ — They Say “Grouping All Women Bad,” but the plan just gives women who have experienced domestic violence the option to declare that in seeking asylum. It’s no different than race or religion — saying someone could be persecuted based on their race doesn’t mean that everyone of that race is a victim. That’s Parish.

And, this argument links to our public-private criticism — not allowing people to receive asylum based on domestic violence reinforces patriarchy and tells people violence against them doesn’t matter. That’s Enloe.

[Read more evidence only if you have time.]

A gender-specific designation is key – reliance on 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." 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 historical permanence.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 characteristic, 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.*⁶ 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 *Narvaez 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]** .¹⁰ It appears more logical to define groups in terms of vulnerability in general because 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 Ltd.*,¹³ 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."¹⁷ 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 identifying 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. In *Fatin v. I.N.S.* the United States Court of Appeals for the Third Circuit also endorsed a similar position when it held 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 well-founded 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."*

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 may be identified by reference to other immutable characteristics such as age, race, marital status or economic status. 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. Instead, 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*,²⁴ 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 by 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 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.**

They Say: “Public Officials Must Consider Consequences”

1NC # ___ — They Say “Public Officials Must Consider Consequences,” but even if you evaluate consequences, domestic abuse outweighs — it’s more devastating than other forms of violence. That’s Parish and Copelon.

And, gender violence is the root cause of war and conflict. It’s impossible to address their DA impact until we deal with gender violence. That’s Duncan and Straton.

[Read more evidence only if you have time.]

A focus on short-term, low probability risks necessitates a sacrifice of justice. The plan’s focus on ethical obligations is a better path to peace.

Bassiouni 3 — M. Cherif Bassiouni, Distinguished Research Professor of Law, President, International Human Rights Law Institute, DePaul University College of Law, President, International Institute for Higher Studies in Criminal Sciences, President, International Association of Penal Law, 2003 (“Justice and peace : the importance of choosing accountability over realpolitik,” Case Western Reserve Journal of International Law, Spring, Available Online at <https://works.bepress.com/m-bassiouni/15/download/>, Accessed 08-08-2018)

At the end of the Second World War, the world collectively pledged "never again." While the intention of this global promise may have been sincere, its implementation has proved elusive. There have been over 250 conflicts in the twentieth century alone, resulting in the deaths of an estimated 75 to 170 million persons. Both State and non-state actors routinely commit extra-judicial execution, torture, rape and other violations of international human rights and humanitarian law. In most cases, political considerations permit perpetrators of gross violations of human rights to operate with impunity. Yet, alongside the sad truth of our consistently violent world stands the moral commitment of the post-war pledge and the related vision of peace, justice and truth.

The human rights arena is defined by a constant tension between the attraction of realpolitik and the demand for accountability. Realpolitik involves the pursuit of political settlements unencumbered by moral and ethical limitations. As such, this approach often runs directly counter to the interests of justice, particularly as understood from the perspective of victims of gross violations of human rights. Impunity, at both the international and national levels, is commonly the outcome of realpolitik which favors expedient political ends over the more complex task of confronting responsibility. Accountability, in contrast, embodies the goals of both retributive and restorative justice. This orientation views conflict resolution as premised upon responsibility and requires sanctions for those responsible, the establishment of a clear record of truth and efforts made to provide redress to victims.

The **pursuit of realpolitik may settle the more immediate problems of a conflict, but, as history reveals, its achievements are frequently at the expense of long-term peace**, stability, and reconciliation. It is difficult to achieve genuine peace without addressing victims' needs and without [*192] providing a wounded society with a sense of closure. **A more profound vision of peace requires accountability** and often involves a series of interconnected activities including: establishing the truth of what occurred, punishing those most directly responsible for human suffering, and offering redress to victims. **Peace is not merely the absence of armed conflict; it is the restoration of justice**, and the use of law to mediate and resolve inter-social and inter-personal discord. **The pursuit of justice and accountability fulfills fundamental human needs and expresses key values necessary for the prevention and deterrence of future conflicts.** For this reason, **sacrificing justice and accountability for the immediacy of realpolitik represents a short-term vision of expediency over more enduring human values.**

Policymakers lack foresight for consequentialism.

Wills 1 — Susan E. Wills, LLM in International and Comparative Law from Georgetown, JD from U of Miami School of Law, 2001 ("Federal Funding of Human Embryonic Stem Cell Research — Illegal, Unethical and Unnecessary," Journal of Contemporary Health Law & Policy, Winter, 2001, Vol. 18, No. 1, p. 117

The utilitarian principle justifies intentional, harmful acts against other humans to achieve a hoped-for benefit to a greater number of people. It is the wrong approach to public policy decisions. Its most notable proponents have been responsible for much of the misery and strife of the last century. Experience has taught us time and again that public servants, even when crafting policies that appear wholly beneficent, can cause great harm (the so-called "law of unintended consequences").

Humans lack the wisdom and foresight to completely understand the future ramifications of many actions. A father, for example, may believe that it is an entirely good thing to help his daughter with homework every day because they are spending time together and he is showing sincere interest in her life and schooling. By "helping" with homework, however, his daughter may be denied the mental struggle of searching for solutions on her own. She may not develop the mental skills to solve tough math problems, for example, or to quickly find key concepts in reading selections. **If even "good" actions can produce undesirable results, how much worse is the case when evil is tolerated in the name of some conjectural, future outcome?**

They Say: “Extinction First”

1NC # ___ — They Say “Extinction First,” but gender violence outweighs and is the root cause of their impact — it ensures the perpetuation of all of the other violences in society. That’s Copelon and Duncan.

And, their “extinction first” arguments are an abdication of our responsibility as humans — there will always be some made up excuse of war or terror or the environment to justify not looking at our role in gender violence. That’s Straton.

[Read more evidence only if you have time.]

Impossible to adjudicate — everything has a chance of extinction.

Nordhaus 11 — William D. Nordhaus, economist and Sterling Professor of Economics at Yale, member of the National Academy of Sciences, senior advisor on the Borokings Panel on Economic Activity, serves on the Congressional Budget Office Panel of Economic Experts, first Chair of the Advisory Committee for the Bureau of Economic Analysis, Ph.D. in Economics from MIT, BA and MA from Yale, 2011 (“The Economics of Tail Events with an Application to Climate Change,” Review of Environmental Economics and Policy, Vol. 5, Issue 2, Summer, pp. 240–257)

The dismal theorem holds that we cannot rule out catastrophic impacts of climate change with 100 percent certainty. If we broaden our horizons, we would find that these results apply in a wide variety of circumstances in which we are highly uncertain about the technology or societal impacts of human activities. Areas in which experts have warned about potentially catastrophic outcomes include biotechnology, strange lets, runaway computer systems, nuclear proliferation, rogue weeds and bugs, nanotechnology, emerging tropical diseases, alien invaders, asteroids, and so on. Like global warming, all these outcomes have deep uncertainty in the sense that we really cannot be sure about the shape of the probability distribution. Indeed, these outcomes may have greater uncertainty than global warming because there are fewer well-understood constants in the biological and technological world than in the geophysical world. Thus, if we were to accept the dismal theorem, we would likely drown in a sea of anxiety at the prospect of the infinity of infinitely bad outcomes.

Weitzman dismisses such pervasive anxieties about these other catastrophic outcomes, arguing that they are “extremely unlikely.” However, other scientists have come to very different conclusions. One example is Freeman Dyson, who optimistically believes that we are on the threshold of developing new technologies that can scrub carbon from the atmosphere at low cost (see Dyson 2008). In another example, Ray Kurzweil (2005) argues that we need to protect ourselves from the “GNR” (genetics, nanotechnology, robotics) revolution but believes that low-cost and clean energy will be attainable in two or three decades. We clearly need an

economic and a statistical approach that can be generally applied to potentially catastrophic events.

Rights outweigh – life without values isn't life at all.

Fuller 14 — Steve Fuller, Professor of Social Epistemology at the University of Warwick, 2014 ("Is Existential Risk an Authentic Challenge or the Higher Moral Evasion?," ABC Religion and Ethics, October 23rd, Available Online at <http://www.abc.net.au/religion/articles/2014/10/23/4113073.htm>, Accessed 08-08-2018)

The bottom line is that **the taking of risks - even** ones that might be reasonably called "**existential risks**" - **is not something to be avoided but embraced** as potentially opening up opportunities that had been previously closed, precisely due to the previous success of the status quo. In the nineteenth and twentieth centuries, the bargain was struck in terms of "the costs of progress." Indeed, the displacement and destruction of nature and people that we nowadays associate with the Industrial Revolution - still regarded as overall positive development in human history - may be understood as simply the first phase of a process whose second phase may be marked by the sorts of displacement and destruction that are now anticipated with the onset of global climate change. Toward a more authentic sense of existential risk Taken together, the Industrial Revolution and today's global climate change constitute what ecologists increasingly call the "anthropocene," the period when our species became the prime mover of environmental transformation. However, the two phases appear to differ in moral standing in today's world. **The destructiveness of the Industrial Revolution is often conceded as a necessary price to pay for a globalized modernity, whereas global climate change is often presented as something that we should do our utmost to mitigate,** if not outright prevent, because we cannot foresee the benefits that would justify the costs. In other words, **the perceived difference between the two phases lies less in the actual damage they will turn out to have inflicted** - in both cases enormous - **than in our capacity to construct a balance sheet that provides some agreed account of the costs and benefits.** Here it is worth recalling that it was only in the 1880s that the idea of an "Industrial Revolution" began to be presented in unequivocally positive terms. However, it would be a mistake to reduce the matter simply to our lack of 20/20 historical vision. **A striking feature of today's debates over global climate change is the relative absence of serious utopian proposals comparable to the ones** - including Marxist ones - **that justified the undeniable costs of mass industrialisation** in the nineteenth and twentieth centuries, which in turn encouraged a sense of perseverance in the face of adversity. These utopias constituted the basis for the modern imagination in science, art and politics. To be sure, they were consistently challenged by various doomsday scenarios of environmental degradation and human exploitation that aimed to halt and maybe even reverse industrialisation. **Indeed, many** - if not most - **of these scenarios did come to pass and their consequences are very much with us today.** Nevertheless, they do not seem as bad now as when originally presented because their significance has been offset by the benefits

inspired by the more utopian sense of the future, which over time has served to reshape humanity's value orientation in its favour. In a nutshell, then, **the problem with the conception of existential risk as presented by Bostrom** and other would-be "Guardians of the Galaxy" **is its failure to recognize the positive side of risk, which is the realization that a radical improvement in the human condition may require a leap into the unknown**, the short term consequences of which may be quite harmful but which in the long term issue in greater benefits that in turn serve to justify the risky undertaking. However, **this oversight may reflect a larger sense of fatalism in the general culture**, one that finds it difficult to achieve the necessary distance from events to make overarching evaluations of harms and benefits. In theological terms, one may regard this fatalism as symptomatic of an incapacity for faith, which is precisely about adopting a positive attitude toward the unknown, and equally an unwillingness to entertain the divine point-of-view. **In the end is there a problem of existential risk worthy of sustained attention? The answer is most certainly yes, and it centres on how we might unwittingly undermine our own values in the course of their pursuit. So, while it is true that a radical change to the human condition - like the Industrial Revolution - may enable our values to be pursued more effectively, it is equally true that we may end up with false proxies for those values that we rationalize as better simply because they are part of the world that we are now stuck with.** Social psychologists speak of this process as "adaptive preference formation," whereby we come to aspire to what we are likely to get. The resulting state of mind is sometimes called "sweet lemons" - the flipside of "sour grapes. When the Existentialists struggled with the problem of "authenticity," being true to oneself, they were approaching this problem. Contra **Bostrom, it is not the problem that humanity might be annihilated by machines, but that we might become machines in the name of becoming human: the destruction of "humanity" as a concept more than the destruction of "humanity" as a population.**

They Say: “Claims of Moral Obligation Allow Violence”

1NC # ___ — They Say “Claims of Moral Obligation Allow Violence,” but that assumes we don’t consider the impact of the plan on victims of domestic violence. We do — we just say that the impact outweighs. That’s Copelon and Wulfhorst.

And, if we win that gender violence is the root cause of their impact, this is irrelevant — they can’t access their impact even if they win their framing arguments.

[Read more evidence only if you have time.]

Utilitarian thinking makes any atrocity justifiable by merely tweaking the numbers. “The greatest good for the greatest number” is the logic that produced the bombing of Hiroshima.

NYT 95 — Byline Jim Holt, commentator for the BBC in New York who writes about politics and philosophy, 1995 (“Morality, Reduced to Arithmetic,” New York Times, August 5th, Available Online at <https://www.nytimes.com/1995/08/05/opinion/morality-reduced-to-arithmetic.html>, Accessed 08-08-2018)

In the debate over the question, participants on both sides have been playing the numbers game. Estimate the hypothetical number of lives saved by the bombings, then add up the actual lives lost. If the first number exceeds the second, then Truman did the right thing; if the reverse, it was wrong to have dropped the bombs.

That is one approach to the matter -- the utilitarian approach. According to utilitarianism, a form of moral reasoning that arose in the 19th century, the goodness or evil of an action is determined solely by its consequences. If somehow you can save 10 lives by boiling a baby, go ahead and boil that baby.

There is, however, an older ethical tradition, one rooted in Judeo-Christian theology, that takes a quite different view. The gist of it is expressed by St. Paul's condemnation of those who say, "Let us do evil, that good may come." Some actions, this tradition holds, can never be justified by their consequences; they are absolutely forbidden. It is always wrong to boil a baby even if lives are saved thereby.

Applying this absolutist morality to war can be tricky. When enemy soldiers are trying to enslave or kill us, the principle of self-defense permits us to kill them (though not to slaughter them once they are taken prisoner).

But what of those who back them? During World War II, propagandists made much of the "indivisibility" of modern warfare: the idea was that since the enemy nation's entire economic

and social strength was deployed behind its military forces, the whole population was a legitimate target for obliteration.

"There are no civilians in Japan," declared an intelligence officer of the Fifth Air Force shortly before the Hiroshima bombing, a time when the Japanese were popularly depicted as vermin worthy of extermination.

The boundary between combatant and noncombatant can be fuzzy, but the distinction is not meaningless, as the case of small children makes clear. Yet is wartime killing of those who are not trying to harm us always tantamount to murder?

When naval dockyards, munitions factories and supply lines are bombed, civilian carnage is inevitable. The absolutist moral tradition acknowledges this by a principle known as double effect: although it is always wrong to kill innocents deliberately, it is sometimes permissible to attack a military target knowing some noncombatants will die as a side effect. The doctrine of double effect might even justify bombing a hospital where Hitler is lying ill.

It does not, however, apply to Hiroshima and Nagasaki. Transformed into hostages by the technology of aerial bombardment, the people of those cities were intentionally executed en masse to send a message of terror to the rulers of Japan.

The practice of ordering the massacre of civilians to bring the enemy to heel scarcely began with Truman. Nor did the bomb result in casualties of a new order of magnitude. The earlier bombing of Tokyo by incendiary weapons killed some 100,000 people.

What Hiroshima and Nagasaki did mark, by the unprecedented need for rationalization they presented, **was the triumph of utilitarian thinking** in the conduct of war. The conventional code of noncombatant immunity -- a product of several centuries of ethical progress among nations, which had been formalized by an international commission in the 1920's in the Hague -- was swept away. A simpler axiom took its place: since war is hell, any means necessary may be used to end, in Churchill's words, "the vast indefinite butchery."

It is a moral calculus that, for all its logical consistency, offends our deep-seated intuitions about the sanctity of life -- our conviction that a person is always to be treated as an end, never as a means.

Left up to the warmakers, moreover, **utilitarian calculations are susceptible to bad-faith reasoning: tinker with the numbers enough and virtually any atrocity can be excused** in the national interest.

Solvency Extensions

They Say: “Many Applicants Still Denied”

1NC # ___ — They Say “Many Applicants Still Denied,” but we don’t need to solve every instance — we make a meaningful difference for each person given asylum.

And, the plan sends an international signal — that spills over to other countries. That’s Wulfhorst.

[Read more evidence only if you have time.]

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

Randall 15 – 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?

Symbolic importance of domestic violence asylum can change acceptance of abuse worldwide. This is empirically proven by FGM.

Marsden 14 – 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.

They Say: “Trump Will Circumvent”

1NC # ___ — They Say “Trump Will Circumvent,” but the aff gets to fiat that the plan is implemented. Amending the definition is sufficient to ensure that domestic violence victims will qualify for asylum post plan. That’s Ludlum.

[Read more evidence only if you have time.]

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.

They Say: “Judge Bias”

1NC # ___ — They Say “Judge Bias,” but the plan creates consistency in definitions that increases success. That’s Heitz and Ludlum.

We can also win even if judges are biased — the existence of the plan sends an international signal that breaks down patriarchy. That’s Wulfhorst.

[Read more evidence only if you have time.]

Clear legislation solves — women denied by biased judges would have legal recourse.

Marsden 14 — 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.

Plan solves inconsistent judges — clear and direct regulations reduce discretion.

Marsden 14, 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

Reforming asylum policy changes decision making.

Faithful 9 – 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.**

They Say: “Return to Abusers”

1NC # ___ — They Say “Women Will Return to Their Abusers,” but the plan creates a pathway for them to leave. That some people will not take it does not justify the atrocity of requiring others stay with their abuser. That’s Wulforst.

[Read more evidence only if you have time.]

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.**

Court Clog Answers

2AC — Court Clog DA Answers

Non-Unique — immigration court 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.

Turn — plan eliminates the Sessions backlog by reducing appeals.

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 — fraudulent claims aren't successful — 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 51} "[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 — terrorism isn't a threat even if they win their risk assessment.

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.

The case outweighs and turns the DA.

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 Maignashca (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.**

Extend: “No Link”

No Link — no explosion of cases 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>)

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**.