IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 19-70245
Agency File No. 209-133-348

KENIA MARTINEZ-MEJIA,
Petitioner,
v.

WILLIAM P. BARR, U.S. Attorney General,
Respondent.

ON PETITION FOR REVIEW OF AN ORDER OF THE BOARD OF IMMIGRATION APPEALS

BRIEF OF *AMICUS CURIAE* THE HARVARD IMMIGRATION AND REFUGEE CLINICAL PROGRAM

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RULE 26.1 DISCLOSURE STATEMENT

The Harvard Immigration and Refugee Clinical Program ("HIRC") is a clinical program at Harvard Law School. No publicly-held entity owns an interest of ten percent or more in HIRC, and it does not have any members who have issued shares or debt securities to the public.

Dated: Oct. 25, 2019

Respectfully submitted,

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INTEREST OF AMICUS CURIAE

The Harvard Immigration and Refugee Clinical Program ("HIRC") submits this brief pursuant to Federal Rules of Appellate Procedure, Rule 29(a) and Circuit Rule 29-3.[1] HIRC has been a leader in the field of refugee and asylum law for over 30 years and has a direct interest and extensive expertise in the proper development and application of immigration and asylum law, so that claims for protection receive fair and full consideration under existing standards of law.

HIRC is dedicated to the representation of individuals applying for U.S. asylum and related protections, as well as the representation of individuals who have survived domestic violence and other crimes and are seeking avoidance of forced removal in immigration proceedings. HIRC has worked with thousands of immigrants and refugees from around the world since its founding in 1984. It combines representation of individual applicants for asylum and related relief with appellate litigation and policy advocacy.

[1] Petitioner consents to this filing and Respondent does not oppose this filing. Amicus states that no counsel for the party authored this brief in whole or in part, and no party, party's counsel, or person or entity other than Amicus and their counsel contributed money that was intended to fund the preparation or submission of this brief. Fed. R. App. P. 29(a)(4)(E).

HIRC attorneys are recognized experts in asylum law, including asylum cases involving gender. HIRC was central to the drafting of the historic U.S. Gender Asylum Guidelines, which were adopted by the federal government, and HIRC has filed briefs as amicus curiae in cases before the U.S. Supreme Court, the federal courts of appeals, the Board of Immigration Appeals, and various international tribunals.

Among HIRC's clients are victims of human rights abuses from all over the world, including women from El Salvador, applying for refugee protection. Accordingly, HIRC has a direct interest in the outcome of this action and respectfully submits this brief in support of the Petitioner.

INTRODUCTION

The Board of Immigration Appeals ("Board") erred in summarily rejecting Petitioner's proposed particular social groups—"Salvadoran women," "single Salvadoran daughters," "unmarried Salvadoran daughters," "Salvadoran daughters viewed as property," "Salvadoran women viewed as property," "Salvadoran women living with male family members," "Salvadoran women in family relationships," and "Salvadoran daughters unable to leave paternal relationships"—as not cognizable in light of *Matter of A-B-*, 27 I. & N. Dec. 316, 328 (A.G. 2018). That

conclusion is inconsistent both with longstanding precedent and with the narrow holding in *Matter of A-B-*, which is not applicable to Ms. Martinez Mejia's case.

Since *Matter of A-B-*, this Court and the Board itself have repeatedly reaffirmed that gender alone can constitute a cognizable social group, depending on the evidence presented in a given case. Immigration judges across the country have also time and again recognized gender as a basis for asylum or withholding of removal post-*A-B-* and have granted gender-based claims for protection.

Matter of A-B- did not overrule the seminal decision, *Matter of Acosta*, in which the Board explicitly recognized "sex" as a quintessential example of a cognizable social group. *See Matter of Acosta*, 19 I. & N. Dec. 211, 233 (BIA 1985). Rather, the Attorney General in *A-B-* favorably cited *Acosta*, highlighting that "persecution . . . directed toward an individual who is a member of a group of persons all of whom share a common, immutable characteristic" constitutes "persecution on account of membership in a particular social group." *A-B-*, 27 I. & N. Dec. at 328. This endorsement is hardly surprising: *Acosta*'s conclusion that gender alone can constitute a cognizable particular social group is faithful to the Immigration and Nationality Act ("INA") and to the *ejusdem generis* canon of statutory interpretation.

Gender-based particular social groups, including gender alone, also satisfy the additional requirements of particularity and social distinction announced in more recent Board decisions since *Acosta*. *See, e.g.*, *Matter of M-E-V-G-*, 26 I. & N. Dec. 227 (BIA 2014) (noting that social group determinations are made on a case-by-case basis). In failing to recognize that Petitioner proposed a cognizable particular social group under *Acosta* and more recent decisions, the Board overlooked what courts have long recognized both nationally and internationally: the Refugee Convention provides protection to victims of gender-based violence.

For these reasons, the Board thus erred when it categorically rejected the gender-based social groups set forth by Petitioner, including the social group of Salvadoran women. This Court should correct that error and vacate the Board's decision.

ARGUMENT

I. MEMBERSHIP IN A COGNIZABLE PARTICULAR SOCIAL GROUP MAY BE SHOWN BASED ON GENDER ALONE

Since *Matter of A-B-*, this Court, the Board, and immigration judges have all repeatedly recognized that gender alone can form the basis of a cognizable social group. In *Silvestre-Mendoza v. Sessions*, for example, this Court recognized "Guatemalan women" as a cognizable particular social group, emphasizing that

gender was "the gravamen of [the petitioner's] complaint." *Silvestre-Mendoza v. Sessions*, 729 F. App'x 597, 598 (9th Cir. 2018); *see also Ticas-Guillen v. Whitaker*, 744 F. App'x 410 (9th Cir. 2018) (finding that "gender and nationality can form a particular social group"). So too here.

Immigration judges across the country have also time and again recognized the cognizability of gender-based social groups since *Matter of A-B-* and have granted asylum and withholding of removal on that ground. *See, e.g.*, —, (San Francisco Immigration Court, Sept. 13, 2018) (unpublished) (concluding that "Mexican females" are a cognizable social group), Add. 61; *see also* —, (Hartford Immigration Court, July 17, 2019) (unpublished) (recognizing the social group of "Guatemalan women who defy gender norms" and granting asylum), Add. 44; *see also* —, (Boston Immigration Court, June 18, 2019) (unpublished) (recognizing "Guatemalan women" as a cognizable social group and granting asylum), Add. 13; *Y-G-L-C-*, AXXX-XXX-392 (Philadelphia Immigration Court, June 6, 2019) (unpublished) (finding "Honduran women" constitutes a cognizable particular social group and granting asylum), Add. 116; *see also C-*, (Philadelphia Immigration Court, May 15, 2019) (unpublished) (recognizing "Guatemalan women" as a valid particular social group and granting asylum), Add. 83; *see also* —, (Arlington

Immigration Court, 2018) (unpublished) (finding the particular social group of "women in Honduras" cognizable and granting asylum), Add. 1.[2]

The Board thus erred in categorically rejecting Petitioner's gender-based social groups, including the social group of "Salvadoran women," without conducting a case-specific analysis, and should therefore vacate its decision. *See M-D-A-*, (BIA, Feb. 14, 2019) (unpublished) (remanding for further consideration of whether "women in El Salvador" constituted a cognizable particular social group), Add. 103; *see also S-R-P-O-*, AXXX XXX 056 (BIA, Dec. 20, 2018) (unpublished) (remanding for further consideration of whether "Mexican women" constituted a cognizable particular social group), Add. 107; *X-Q-C-D-*, (BIA, Dec. 11, 2018) (unpublished) (same), Add. 111.

II. THE CONCLUSION THAT GENDER ALONE IS SUFFICIENT TO ESTABLISH MEMBERSHIP IN A PARTICULAR SOCIAL GROUP IS FAITHFUL TO THE INA, AS RECOGNIZED IN *ACOSTA*

The recognition that gender alone is sufficient to establish membership in a cognizable social group dates back to the Board's seminal 1985 decision in *Matter of Acosta*. In that case, the Board drew on the *ejusdem generis* canon of statutory construction, which "holds that general words used in an enumeration with specific

[2] All unpublished decisions cited here have been included in the Addendum.

words should be construed in a manner consistent with the specific words," in order to clarify the meaning of the "membership in a particular social group" ground for asylum. *Acosta*, 19 I. & N. Dec. at 233. Looking to the other four protected grounds—race, religion, nationality, and political opinion—the Board found that each "describes persecution aimed at an immutable characteristic . . . that either is beyond the power of an individual to change or is so fundamental to individual identity or conscience that it ought not be required to be changed." *Id.*

Based on that understanding, the Board determined that "membership in a particular social group" should be read to encompass "persecution that is directed toward an individual who is a member of a group of persons all of whom share a common, immutable characteristic." *Id.* The Board then recognized that "[t]he shared characteristic" for purposes of establishing asylum eligibility "might be . . . sex, color, or kinship ties." *Id.*

Circuit courts of appeal have long accepted the *Acosta* framework and recognized gender as an immutable characteristic. Reasoning from *Acosta*, this Court has observed that "the recognition that girls or women of a particular clan or nationality (or even in some circumstances females in general) may constitute a social group is simply a logical application . . . [of the conclusion that] a 'particular

social group' is one united by . . . an innate characteristic[.]" *Mohammed v. Gonzales*, 400 F.3d 785, 797 (9th Cir. 2005); *see also Perdomo v. Holder*, 611 F.3d 662, 669 (9th Cir. 2010) (remanding the Board's decision that "women in Guatemala" could not constitute a particular social group because it was "inconsistent with . . . *Acosta*"). Similarly, in *Cece v. Holder*, the Seventh Circuit found that that the Board did not offer an explanation as to why "Cece's group is not cognizable" under *Acosta*, or "why being a young woman living alone in Albania does not qualify as a social group when the attributes are immutable or fundamental." 733 F.3d 662, 676 (7th Cir. 2013).

In *Niang v. Gonzales*, the Tenth Circuit "[a]ppl[ied] the *Acosta* definition" to find that "female members of a tribe" qualified as a particular social group, observing that "[b]oth gender and tribal membership are immutable characteristics." 422 F.3d 1187, 1199–1200 (10th Cir. 2005) (noting that "the focus with respect to [gender-based] claims should be not on whether either gender constitutes a social group (which both certainly do) but on whether the members of that group are sufficiently likely to be persecuted that one could say that they are persecuted 'on account of' their membership"). And, in *Hassan v. Gonzales*, the Eighth Circuit recognized the particular social group "Somali women" based on the applicant's

"possession of the immutable trait of being female." 484 F.3d 513, 518 (8th Cir. 2007); *see also Ngengwe v. Mukasey*, 543 F.3d 1029 (8th Cir. 2008) (holding that "Cameroonian widows" is a cognizable particular social group).

As far back as 1993, then-Judge Alito of the Third Circuit cited *Acosta* approvingly in *Fatin v. INS*. In *Fatin*, the Third Circuit noted that because *Acosta* "specifically mentioned 'sex' as an innate characteristic that could link the members of a 'particular social group,'" Fatin had satisfied that requirement "to the extent that . . . [she] suggest[ed] that she would be persecuted . . . simply because she is a woman"). 12 F.3d 1233, 1240 (3d Cir. 1993).

Acosta also provided the framework for federal guidelines issued in 1995 regarding "asylum claims by women." *See generally* Memorandum from Phyllis Coven, INS Office of International Affairs, to All INS Asylum Officers and HQASM Coordinators, *Consideration for Asylum Officers Adjudicating Asylum Claims from Women* 9 (May 26, 1995) (describing *Fatin* as consistent "with the statement of the Board in *Acosta* that 'sex' might be the sort of shared characteristic that could define a particular social group"); *see also Matter of Kasinga*, 21 I. & N. Dec. 357, 377 (BIA 1996) (Rosenberg, concurring) ("Our recognition of a particular social group

based upon tribal affiliation and gender is also in harmony with the guidelines for adjudicating women's asylum claims issued by [INS].").

III. GENDER MEETS THE CRITERIA THE BOARD HAS ADDED TO DEFINE MEMBERSHIP IN A PARTICULAR SOCIAL GROUP SINCE *ACOSTA*

In recent years, the Board has "expanded the [particular social group] analysis beyond the *Acosta* test," requiring that the social group also be "particular" and "socially distinct." *M-E-V-G-*, 26 I. & N. Dec. at 232. With respect to social distinction, the Board has explained that asylum seekers must offer evidence that "society in general perceives, considers, or recognizes persons sharing the particular characteristic to be a group." *Matter of W-G-R-*, 26 I. & N. Dec. 208, 217 (BIA 2014). With respect to particularity, the Board has emphasized that the group "must be defined by characteristics that provide a clear benchmark for determining who falls within [it]." *Id.* at 214.

The gender-based particular social groups, including the social group of Salvadoran women, proffered by Ms. Martinez Mejia satisfy these requirements. First, as noted, gender, like race or religion, is central to identity and is something a person cannot or should not be required to change. *See Acosta*, 19 I. & N. Dec. at 233. Second, gender meets the requirement of particularity. *See Perdomo*, 611 F.3d

at 669 (determining that the group of "women in Guatemala" can be sufficiently particular to be cognizable). Salvadoran women, like Ms. Martinez Mejia are "recognized in the society in question as a discrete class of persons." *See M-E-V-G-*, 26 I. & N. Dec. at 249. There are well-established benchmarks for determining who is a woman and who is not, and the Salvadoran government and society frequently make such determinations. The government, for example, lists gender on Salvadoran identification documents, including Ms. Martinez Mejia's. A.R. 809–10 (General Directorate of Migration and Foreigners: *Information about the Person*). Although the category covers a large group of persons, "Salvadoran women" has well-defined boundaries and therefore meets the particularity requirement established by the Board. *See Matter of S-E-G-*, 24 I. & N. Dec. 579, 585–86 (BIA 2008).

Third, Ms. Martinez Mejia's gender-based particular social groups satisfy the social distinction requirement. This Court has recognized that legislation addressing a specific group is among the best "evidence that a society recognizes a particular class of individuals as uniquely vulnerable." *Henriquez-Rivas v. Holder*, 707 F.3d 1081, 1092 (9th Cir. 2013). Cultural and legal norms permitting widespread violence against women can also demonstrate that women are "set apart" in society and are therefore "socially distinct." *See, e.g.*, —, (Arlington Immigration Court, 2018) at 7

(finding that Honduran women are "set apart"); *see also S-R-P-O-*, AXXX XXX 056 (BIA, Dec. 20, 2018) (remanding for consideration of whether "Mexican women" constitutes a valid particular social group); *see also* Y-G-L-C-, AXXX-XXX-392 (Philadelphia Immigration Court, June 6, 2019) at 15 (holding that Honduran women met the requirements for social distinction); *see also* —, (Boston Immigration Court, June 18, 2019) at 12 (finding Guatemalan women to be socially distinct).

Salvadoran laws and culture reflect both the fact that women are "uniquely vulnerable" and the fact that women are "set apart." The rates of domestic and sexual violence against women in El Salvador are among the highest in Latin America. These rates thus constitute evidence that women are viewed as distinct in Salvadoran society, as do laws directed at addressing the needs of women as a class, by providing—at least on paper—protections against domestic violence and rape. A.R. 306 (U.S. Department of State, El Salvador 2017 Human Rights Report), 377–82 (Declaration of Harry E. Vanden, Ph.D., Country Expert).

Moreover, as noted above, in several post-*Matter of A-B-* decisions, immigration judges have recognized that women as a group can satisfy the particularity and social distinction requirements based on similar records. In one

case, for example, Assistant Chief Immigration Judge Deepali Nadkarni found that "women in Honduras" met all three criteria for defining a particular social group, pointing to *Acosta* for immutability and to reports by the State Department and United Nations bodies showing marginalization, discrimination, and pervasive violence against women, as well as impunity for perpetrators, to satisfy the social distinction requirement. *See* —, (Arlington Immigration Court, 2018) at 8 (noting "the Board has routinely recognized large groups as defined with particularity"). Judge Miriam Hayward applied similar reasoning in another case and concluded that "Mexican females" were a cognizable social group. *See* —, (San Francisco Immigration Court, Sept. 13, 2018) at 10.

IV. OTHER SIGNATORIES TO THE REFUGEE CONVENTION AND INTERNATIONAL BODIES HAVE ALSO RECOGNIZED GENDER ALONE AS A COGNIZABLE SOCIAL GROUP

Among other signatories to the Refugee Convention and 1967 Protocol to the Convention,[3] the *Acosta* framework and the consequent conclusion that gender may

[3] The United States is a signatory to the 1967 Protocol relating to the Status of Refugees, which incorporated most of the provisions of the 1951 Convention, while removing certain temporal and geographical limitations. *See* Protocol relating to the Status of Refugees, adopted Jan. 31, 1967, entered into force Oct. 4, 1967, 606 UNTS 267; Convention relating to the Status of Refugees, adopted July 28, 1951, entered into force Apr. 22, 1954, 189 UNTS 137.

define a particular social group are well established. The views of other signatories are directly relevant to the proper interpretation of the INA, given that "the definition of 'refugee' that Congress adopted is virtually identical to the one" in the Refugee Convention. *INS v. Cardoza-Fonseca*, 480 U.S. 421, 437 (1987) (noting that "one of Congress' primary purposes [in passing the Refugee Act of 1980] was to bring United States refugee law into conformance with the [1967 Protocol relating to the Status of Refugees]" (internal quotation marks omitted)); *see also Negusie v. Holder*, 555 U.S. 511, 537 (2009) ("When we interpret treaties, we consider the interpretations of the courts of other nations, and we should do the same when Congress asks us to interpret a statute in light of a treaty's language.") (Stevens, J., concurring in part and dissenting in part)).

The Supreme Court of Canada, for example, relied upon *Acosta* in its seminal decision *Canada (Attorney General) v. Ward*, finding that particular social group "would embrace individuals fearing persecution on such bases as gender," an "immutable characteristic." [1993] 2 S.C.R. 689, 75, 79 (Can., S.C.C.); *see also Josile v. Canada (Minister of Citizenship & Immigration)*, [2011] 382 FTR 188 (Can. FC, Jan. 17, 2011), at [10], [28]-[30] ("Haitian women"); *Kn v. Canada (Minister of Citizenship & Immigration)*, (2011) 391 FTR 108 (Can. FC, June 13, 2011), at [30]

("women in the [Democratic Republic of Congo]"), cited in JAMES C. HATHAWAY & MICHELLE FOSTER, THE LAW OF REFUGEE STATUS § 5.9.1 (2d ed. 2014) (collecting these and other cases). Canada also adopted gender asylum guidelines in 1993, updated in 1996, which recognized that gender is the type of innate characteristic that may define a particular social group. Immigration & Refugee Board of Canada, *Women Refugee Claimants Fearing Gender-Related Persecution: Guidelines Issued by the Chairperson Pursuant to Section 65(3) of the Immigration Act* (Mar. 9, 1993) (updated on Nov. 13, 1996).

The United Kingdom House of Lords similarly relied on *Acosta* to recognize "women in Pakistan" as a particular social group, observing that its conclusion was "neither novel nor heterodox," but "simply logical application of the seminal reasoning in *Acosta*." *Islam & Shah v. Sec'y of State Home Dep't*, [1999] 2 AC 629, 644–45 (U.K.); *see Fornah (FC) v. Sec'y of State for Home Dep't*, [2006] UKHL 46, para. 31 (Lord Cornhill) (identifying "women in Sierra Leone" as "a group of persons sharing a common characteristic which, without a fundamental change in social mores is unchangeable, namely a position of social inferiority compared with men"); *see also* Immigration Appellate Authority of the United Kingdom, *Asylum Gender Guidelines* 41 (Nov. 2000) ("Particular social groups can be identified by

reference to innate or unchangeable characteristics or characteristics that a woman should not be expected to change," including "gender.").

Tribunals in New Zealand and Australia have similarly noted that "it is indisputable that sex and gender can be the defining characteristic of a social group and that 'women' may be a particular social group." *Refugee Appeal No. 76044* para. 92 (NZ RSAA, 2008); *accord Minister for Immigration & Multicultural Affairs v. Khawar* (2002) 76 A.L.J.R. 667 (Aust.) (recognizing "women in Pakistan" as a cognizable social group). Australia has also adopted guidelines recognizing that "whilst being a broad category, women nonetheless have both immutable characteristics and shared common social characteristics which may make them cognizable as a group and which may attract persecution." Australian Department of Immigration and Multicultural Affairs, *Refugee and Humanitarian Visa Applicants: Guidelines on Gender Issues for Decision Makers* § 4.33 (July 1996).

Further support for the view that gender alone may establish membership in a particular social group comes from the UNHCR, which, as part of its supervisory responsibilities, provides interpretive guidance on the provisions of the 1951 Convention and 1967 Protocol relating to the Status of Refugees. In 2002, for example, the UNHCR issued gender guidelines which adopted *Acosta*'s *ejusdem*

generis analysis and found that "sex can properly be within the ambit of the social group category, with women being a clear example of a social subset defined by innate and immutable characteristics." UNHCR, *Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, U.N. Doc. HCR/GIP/02/01 (May 7, 2002); *see also* UNHCR, *Guidelines on International Protection: Membership of a Particular Social Group within the context of Article 1(A)(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, U.N. Doc. HCR/GIP/02/02 at 4 (May 7, 2002) ("[W]omen may constitute a particular social group under certain circumstances based on the common characteristic of sex, whether or not they associate with one another based on that shared characteristic."). These materials constitute "persuasive authority in interpreting the scope of refugee status under domestic asylum law." *Miguel-Miguel v. Gonzales*, 500 F.3d 941, 949 (9th Cir. 2007); *see also Grace v. Whitaker*, 344 F. Supp. 3d 96, 124 (D.D.C. 2018) (noting that "the language in the [Refugee] Act should be read consistently with the United Nations' interpretations of the refugee standards").

V. MS. MARTINEZ MEJIA'S MEMBERSHIP IN GENDER-BASED GROUPS IS "A REASON" SHE WAS TARGETED BY HER PERSECUTORS

Under the REAL ID Act, Ms. Martinez Mejia need only show that her membership in the group of Salvadoran women constituted "a reason" for the harm she suffered. In *Barajas-Romero v. Lynch*, this Court held that the REAL ID Act applied different standards to asylum and withholding when it used the words "at least one central reason" in the asylum context and "a reason" in the withholding context, concluding that "'a reason' is a less demanding standard than 'one central reason.'" 846 F.3d 351, 360 (9th Cir. 2017). Ms. Martinez Mejia has more than satisfied the standard.

Ms. Martinez Mejia suffered sexual abuse and rape because of her gender, as well as its intersection with other immutable characteristics: her nationality, her membership in her father's family, her lack of protection from male family members, and the belief of her male family members that she was their property. *See* A.R. 336–47 (Declaration of Kenia Yamileth Martinez Mejia), 2001–47 (Respondent's Written Closings). The record evidence of pervasive violence against women and impunity for perpetrators of gender-based violence creates a strong inference that Ms. Martinez Mejia's status as a woman was "a reason" for the persecution she suffered and fears. A.R. 306, 377–82.

She has presented both direct and circumstantial evidence of nexus. For example, she proffered direct evidence that her father sexually abused her since she was eight years old, and stated that "he could do whatever he wanted," because she was his daughter. *Id*. Due to her experiences of violence at the hands of men, Ms. Martinez Mejia was diagnosed with Post-Traumatic Stress Disorder. A.R. 812–18 (Pro-Bono Psychological Evaluation of Kenia Yamileth-Martinez Mejia). Additionally, she submitted circumstantial evidence of the predominance of machismo culture in El Salvador, which entrenches domestic violence and violence against women. A.R. 306, 377–82. *C.f.* —, (Denver Immigration Court, Mar. 7, 2019) (unpublished) (finding that evidence "pertaining to men's views of women and Mexico's patriarchal and machismo-based culture" demonstrated that gender was "one central reason" for her persecution), Add. 28.

The evidence Ms. Martinez Mejia submitted reflects the fact that when a woman tells her partner or father that she is not his property, that man is likely to retaliate and reinforce control. A.R. 306, 377–82. As country expert Dr. Harry E. Vanden noted, "if Ms. Martinez-Mejia did return to El Salvador, as the survivor of past sexual aggression and targeting by her father, uncle and the M 18 gang, she would be in a dangerous position. In this situation, as an unmarried abused woman

in her mid-twenties it is very likely (more than 50%) that she would be the target of more abuse from her father or other family members or friends and members of the M-18 gang, no matter where she settled." A.R. 382. The evidence presented thus supports a finding that Ms. Martinez Mejia's gender was a reason for the persecution she suffered and fears.

CONCLUSION

The Board thus erred when it categorically rejected the gender-based social groups set forth by Petitioner, including the social group of Salvadoran women. This Court should correct that error and vacate the Board's decision.

Dated: Oct. 25, 2019

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I, Sabrineh Ardalan, certify that this brief contains approximately 4,450 words, excluding the items exempted by Fed. R. App. P. 32(f). The brief's type size and typeface comply with Fed. R. App. P. 32(a)(5) and (6).

I certify that this brief is an amicus brief and complies with the word limit of Fed. R. App. P. 29(a)(5), Cir. R. 29-2(c)(2), or Cir. R. 29-2(c)(3), which in this case is 7,000 words.

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CERTIFICATE OF SERVICE

I, Sabrineh Ardalan, hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

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