

HS Law Corp
Otavio Haverroth Silva, SBN#343486
P.O. Box 90487
San Diego, CA 92169
(510) 241-9336

Non-Detained

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
915 2nd Avenue, Suite 613
Seattle, WA 98174

In the Matter of

Rayane Cristina Gonsaga Guimarães

In Removal Proceedings

File No. A 249-261-932

Immigration Judge: **Tisocco, Michael**

Next Hearing: **August 21, 2026, at 1:00 PM**

RESPONDENT'S LEGAL BRIEF IN SUPPORT OF APPLICATION
FOR ASYLUM, WITHHOLDING OF REMOVAL AND
PROTECTION UNDER CAT

**RESPONDENT'S BRIEF IN SUPPORT OF APPLICATION FOR ASYLUM,
WITHHOLDING OF REMOVAL, AND PROTECTION UNDER THE
CONVENTION AGAINST TORTURE**

I. INTRODUCTION

Respondent Rayane Cristina Gonsaga Guimaraes ("Respondent"), bby and through undersigned counsel, respectfully submits this brief in support of his application for asylum pursuant to INA § 208, 8 U.S.C. § 1158, or in the alternative, for withholding of removal pursuant to INA § 241(b)(3), 8 U.S.C. § 1231(b)(3), and for protection under the Convention Against Torture ("CAT"), 8 C.F.R. §§ 1208.16(c), 1208.17, 1208.18.

II. STATEMENT OF FACTS¹

A. Background and Early Vulnerabilities²

Respondent was born on April 6, 1988, in Castanhal, Pará, Brazil. Her biological parents did not raise her; her mother became pregnant at fourteen years of age, and her father, a married man, has never been part of her life. Respondent's maternal grandmother raised her from birth. When her grandparents passed away, Respondent was between eight and ten years old, and she went to live with her biological mother.

For approximately three years thereafter, Respondent's stepfather subjected her to psychological, sexual, and financial abuse, molesting her repeatedly out of her mother's sight while she was a child. Respondent did not disclose the abuse to her family until she was an adult, approximately one year before she left Brazil, and has since faced reprisal from her family, blamed for the violence she endured and for speaking up about it. To escape the violence in her stepfather's home, Respondent married very young, at 18 years of age, to a 28-year old pastor. The Respondent was soon able to annul the marriage after a discovery of infidelity.

¹This Statement of Facts is based on the following evidence on record: Respondent's Declaration (Evidence Part 01); Respondent's Supplemental Declaration (Evidence Part 07); Country Conditions Reports (Evidence Part 02); Respondent's Passport (Evidence Part 03, Exhibit 1); Marriage Certificate with Public Deed of Divorce (Evidence Part 03, Exhibit 2); Birth Certificate of U.S. Citizen Son (Evidence Part 03, Exhibit 3) Letters of Support (Evidence Part 04); Record of Criminal Proceedings Initiated Against Edivan Silva Ferreira for Domestic Violence Inflicted on the Respondent, No. 5249906-21.2023.8.09.0174 (Evidence Part 05, Exhibit 3), Evidence of Persecution and Police Report (Evidence Part 05, Exhibits 1 and 2); Record of Criminal Proceedings Initiated Against Edivan Silva Ferreira for Domestic Violence Inflicted on Ex-Partner Luciene Costa Castilho, No. 5678626-30.2023.8.09.0174 (Evidence Part 06, Exhibit 1); Evidence of Psychological Harm (Evidence Part 06, Exhibit 2); Notification to Grant Parole (Evidence).

² See Respondent's Declaration, Evidence Part 01, paragraphs 1-20.

Respondent then relocated to Goiania, Goias, to distance herself from that environment. There she met Mauro Reis Guaracy Junior, a man 30 years older than her, with whom she had a seven-year relationship and a son, Gustavo Guimaraes Guaracy. Mauro was controlling and did not allow Respondent to work or study; when she nonetheless decided to pursue her career, the relationship ended, and Respondent raised her son alone, while working and completing a four-year degree in Pedagogy. Mauro did not accept the separation and stalked Respondent for a period afterward, threatening to take her son from her if she did not return to him.

C. The Relationship with Edivan Silva Ferreira³

In 2017, Respondent met Edivan Silva Ferreira, a retired military firefighter from the Goias Military Fire Department, later employed as personal bodyguard to the mayor of Senador Canedo, Goias. Edivan was controlling, jealous, and aggressive, and prone to invoking his military and political position to intimidate others into believing no one could stand up to him. He treated Respondent as a trophy to display to others as proof that she belonged to him. After approximately three years, Respondent discovered that Edivan was having extramarital relationships with men, that he had concealed being HIV-positive, and that he was involved in schemes of corruption, extortion, and the transport of illicit money for local politicians together with other security agents.

Edivan forced Respondent to accept degrading sexual practices, including nonconsensual intimate recordings and forced visits to swingers' clubs. He photographed her nude without consent while she slept and posted the images in Facebook groups; once Respondent discovered this and had the images removed, Edivan began using the photographs and the recordings of their sexual relations as instruments of blackmail, threatening to repost them whenever Respondent resisted him. In 2022, Edivan pressured Respondent into formal marriage, telling her that marriage would give him the right to do as he wished with her; he further told her that once they were married on paper, nothing that happened between them would matter to God, weaponizing Respondent's faith to justify the intramarital abuse.

After the marriage, the physical and sexual violence intensified, and Edivan began raping Respondent repeatedly, at times pulling out clumps of her hair as he forced himself on her. On several occasions, Edivan beat her while holding a gun to her head to force her submission, and he slept with his pistol under his pillow, leaving Respondent in constant fear that he would use it against her. He insulted her as a "whore" and a "slut," and told her repeatedly that she belonged to him. Edivan also controlled Respondent's phone, forbade her from setting passwords, monitored her messages and location, and limited her contact with family and friends.

D. The April 2023 Incident and State's Response to the Persecution⁴

³ See Respondent's Declaration, Evidence Part 01, paragraphs 21-44.

⁴ See Respondent's Declaration, Evidence Part 01, paragraphs 45-77.

In April 2023, the most significant incident in the relationship occurred. Edivan drove the Respondent to a swingers' club and, when she refused to go inside, he grabbed her by the arm, insisted she had to do as he wished because she was his wife, forced her back into the vehicle, and locked the door.

Edivan then drove off at high speed while insulting her, drew his pistol, and threatened to shoot her in the face if she opened her mouth⁵. When she continued to resist, he told her he would kill her and began striking her repeatedly in the face with the butt of the gun while driving. Edivan later stopped the car, threatened to shoot her in the back if she tried to run, and, when Respondent grabbed the gun as he restarted the car, beat her and screamed that he would kill her and her son, injuring her thumb as he forced the weapon from her. Respondent was able to call the police and send them audio recordings of the threats.

When the police arrived at their house, Respondent showed them where the gun was and recounted everything that had happened; she was bleeding and bruised from the blows, and her clothes were torn. The responding officer told her the gun had been cocked and that she had survived only because it was not her day to die.

Edivan was arrested in the act. That arrest initiated a police investigation and a criminal proceeding, Case No. 5249906-21.2023.8.09.0174, accusing Edivan of acts of domestic violence against the Respondent. Edivan was imprisoned for fifteen days, in a military barracks (given his military status), and his illegal firearm was seized, but he was soon released without bail.

Respondent requested emergency protective measures, which the court granted, prohibiting Edivan from approaching her, and she was furnished a panic button to use if Edivan came near her.⁶ Edivan nonetheless approached her regardless of the order, and calling the police produced no response. Despite the restraining order, he continued to stalk, threaten, and assault Respondent, relying on his political influence to remain unpunished. Edivan understood that nothing would happen to him because of his political status: his only fear was losing his state pension or his position at the barracks, not imprisonment.

Because Edivan faced no real consequence, he began threatening Respondent in order to force her to withdraw the complaint, appearing at her house, leaving letters in her mailbox and under her gate, calling her and her son's phones, and sending messages through her friends, always threatening to kill her if she did not withdraw it.

Then, one night, Edivan broke into Respondent's house, said he would kill her if she did not have sex with him, drew his pistol, threw her to the floor, forced her legs open, stepped on her neck, and inserted the barrel of the pistol into her vagina, telling her she had only a few days to withdraw

⁵See Evidence Part 05, Exhibit 2 (Transcript from Audio Recording of Police Call).

⁶See Respondent's Declaration, Evidence Part 01, paragraph 66; Evidence Part 05, Exhibit 4 (Respondent's Request for Protective Measures, and Delivery Record of Portable Tracking Device (Panic Button)), and Exhibit 3 (Ruling in Custody Hearing: Granted Provisional Release Without Bail).

the complaint or she would "wake up with her mouth full of ants." He threatened to kill her and her son while raping her with the gun. Respondent had never experienced fear like this, and understood that Edivan was in earnest and would carry out the threat. After this incident, Respondent understood she could not remain in Brazil under any circumstances: he remained free, unpunished, and determined to end her life.

Respondent took the threat seriously and tried to withdraw the criminal complaint entirely, but was told this was no longer possible because the case was already in process; she was able only to revoke the protective measures then in place, measures she understood were in any event no longer useful in protecting her.⁷ Notwithstanding that revocation, Respondent still appeared at the hearing and testified before the judge, the prosecutor, and Edivan himself, recounting everything that had happened.⁸ This demonstrates that, despite facing no legal consequences and continuing to enjoy complete impunity, Edivan now has an even greater motive to retaliate against Respondent for reporting his crimes and pursuing justice. Although both Respondent and Edivan understand that the criminal proceedings are unlikely to result in any meaningful accountability, Edivan nevertheless seeks revenge for her decision to expose his crimes and challenge his impunity. As long as those proceedings remain pending, Respondent remains the person responsible for attempting to hold him accountable, giving him every incentive to silence her.

F. Pattern of Impunity: The Case of Luciene Costa Castilho⁹

Edivan has a criminal record that includes domestic violence, and Respondent's account is not isolated: his former wife, Luciene Costa Castilho, also filed a criminal complaint against him after he beat her and fired a gun against her car – which originated Case No. 5678626-30.2023.8.09.0174. As a result of that case, Edivan lost his firearm and his license to carry, but this legal measure proved insufficient, since he possessed another, unregistered weapon throughout his relationship with Respondent, and he suffered no other consequence. The event that originated this case happened in early 2018 and the case remains unresolved, with no significant outcomes. Respondent understands that her own case will likely come to nothing, just as Luciene's did, and that Edivan was arrested at all in her case only because he was caught in the act; without that, there may not even have been a criminal case against him. Nor is this pattern confined to Edivan: a friend of his who held the same position in the Fire Department killed his wife and remains free to this day.

Respondent's own case has since progressed, though only after significant delay. Nearly three years after Edivan's arrest, the Public Prosecutor's Office filed a formal criminal complaint

⁷See Evidence Part 05, Exhibit 4 (Petition for Revocation of Protective Measures and Retraction); *see also* Respondent's Declaration, Evidence Part 01, paragraph 76.

⁸See Evidence Part 05, Exhibit 4 (Victim's Hearing Record Regarding Request for Protective Measures); *see also* (Public Prosecutor's Statement on the Request to Revoke Protective Measures).

⁹ *See* Respondent's Declaration, Evidence Part 01, paragraphs 78-80; *see also* Evidence Part 06, Exhibit 1 (Evidence of Persecutor's Persistent Impunity and State Failure to Protect).

against him, charging him under Article 129, Paragraph 13, of the Penal Code for having offended Respondent's physical integrity, "on grounds of the victim's female gender", within the context of the Maria da Penha Law, and under Article 14 of Federal Law 10.826/2003 for illegal firearm possession, aggravated under Article 61, Section II, Paragraph f, of the Penal Code.¹⁰ That the Brazilian government's own charging instrument expressly attributes Edivan's violence to Respondent's condition as a woman confirms, in the government's own words, the gender-based nature of the persecution she endured. The nearly three-year delay between arrest and indictment nonetheless reflects the same institutional unwillingness to act with urgency that runs throughout this record, addressed further below.

H. Respondent's Current Circumstances and Continuing Fear¹¹

Edivan has told Respondent directly that he will find her "even if it's in hell," and he retains the institutional means to do so: his military status, his background in law enforcement, his connections to government institutions, together with a stated motive of revenge for her having spoken out against him. Respondent's declaration recounts that Edivan boasted to her of having killed multiple people while on active military duty, and that he counted among his closest friends Reinaldo, a member of the Rapid Ostensive Intervention Group (GIRO) of the Goiania Military Police, whom Respondent describes as extremely dangerous and someone who killed for sport, in cold blood; no one in the city dared confront either man. Respondent believes that if she were forced to return to Brazil, Edivan would locate her and carry out his threats, whether personally or through Reinaldo or another intermediary.

Edivan remains free in Brazil, circulating openly notwithstanding the evidence against him, and he continues to monitor Respondent's social media from Brazil. Respondent has found in the United States security from these threats and is building a community through her church and family. She recently remarried and gave birth to her second child, and she does not want that child to grow up fearing for their safety as she did.

III. RESPONDENT'S REMOVABILITY HAS NOT BEEN ESTABLISHED

Respondent was charged as subject to removal under INA Sections 212(a)(7)(A)(i)(I) and 212(a)(6)(A)(i). Respondent has denied the charges of removability and the factual allegations contained in the Notice to Appear¹², given she was granted parole upon entrance¹³ – conduct that does not fall within the conduct proscribed by INA § 212(a)(6)(A)(i). A grant of parole does not constitute an admission, but it is legally significant because a parolee remains in the legal posture of

¹⁰ See Evidence Part 05, Exhibit 3 (Criminal Complaint Filed Against the Persecutor).

¹¹ See Respondent's Declaration, Evidence Part 01, paragraphs 98-111; see also Evidence Part 07, Respondent's Supplemental Declaration, paragraph 2.

¹² See Written Pleadings.

¹³ See Evidence, Exhibit 1 (Notification to Grant Parole).

an applicant for admission rather than a person who entered without inspection, and the removability analysis must proceed on that basis. *Leng May Ma v. Barber*, 357 U.S. 185, 188 to 190 (1958).

The government has not addressed on this record how a grant of parole is reconcilable with allegations that presuppose entry without inspection or parole. Removability accordingly remains contested and has not been established on this record.

IV. ARGUMENT

A. Respondent Is Eligible for Asylum

1. Legal Standard

To qualify for asylum, an applicant must establish that she is a refugee, that is, a person unable or unwilling to return to her country of nationality because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. INA Section 101(a)(42)(A), 8 U.S.C. Section 1101(a)(42)(A); INA Section 208(b)(1)(A), 8 U.S.C. Section 1158(b)(1)(A). The protected ground must be at least one central reason for the persecution. INA Section 208(b)(1)(B)(i), 8 U.S.C. Section 1158(b)(1)(B)(i). An applicant who establishes past persecution is entitled to a rebuttable presumption of a well-founded fear of future persecution. 8 C.F.R. Section 1208.13(b)(1). Even absent past persecution, a well-founded fear exists where there is only a ten percent probability of persecution. *INS v. Cardoza-Fonseca*, 480 U.S. 421, 431, 440 (1987).

An applicant's testimony, standing alone, may sustain his burden of proof where it is credible, persuasive, and refers to specific facts sufficient to demonstrate eligibility. INA § 208(b)(1)(B)(ii). *Diallo v. INS*, 232 F.3d 279, 285 (2d Cir. 2000). Where corroboration is found lacking, the applicant must receive notice and an opportunity to explain its absence. *See Liu v. Holder*, 575 F.3d 193, 198 (2d Cir. 2009). Respondent has produced extensive corroborating evidence, including the court record of her own criminal proceeding and Luciene Costa Castilho's parallel proceeding, police and medical records, an audio recording of Edivan's threats, documentation of his military status and firearm authorization, country-conditions reporting, and letters of support, addressed throughout this brief.

2. The Harm Respondent Endured Rises to the Level of Past Persecution

Persecution encompasses "a threat to life or freedom of, or infliction of suffering or harm upon, those who differ in a way regarded as offensive." *Matter of Acosta*, 19 I&N Dec. 211, 222 (BIA 1985), modified on other grounds by *Matter of Mogharrabi*, 19 I&N Dec. 439 (BIA 1987). Adjudicators must weigh the "cumulative" significance of multiple instances of harm. *Poradisova v. Gonzales*, 420 F.3d 70, 79 (2d Cir. 2005) (finding reversible error where the IJ erred in "addressing

the severity of each event in isolation, without considering its cumulative significance”); *see also Matter of O-Z- & I-Z-*, 22 I&N Dec. 23, 25-26 (BIA 1998) (beatings, threats, vandalism, and humiliation may constitute persecution “in the aggregate”).

Significant portions of the harm Respondent suffered occurred during her childhood. The United Nations Guidelines for Child Asylum Claims provide that “[t]he harm a child fears or has suffered . . . may be relatively less than that of an adult and still qualify as persecution,” and that “[i]ll-treatment which may not rise to the level of persecution in the case of an adult may do so in the case of a child.” *UNHCR Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees*, 22, ¶¶ 10, 15 (Dec. 22, 2009). In *Hernandez-Ortiz v. Gonzales*, 496 F.3d 1042, 1045 (9th Cir. 2007), the Ninth Circuit acknowledged that the harm a child fears or has suffered may qualify as persecution on a lower threshold than for adults. This reflects the unique circumstances of children, including their limited capacity to cope with harm, their heightened vulnerability, and the distinct psychological, social, and physical impact that persecution may have on their development. The United States Bureau of Citizenship and Immigration Services’ own Guidelines for Children’s Asylum Claims confirm that childhood harm warrants heightened consideration. *See Guidelines for Children’s Asylum Claims*, INS Policy and Procedural Memorandum (Asylum and Refugees), at 14, (Dec. 10, 1998). Respondent was sexually abused as a child by her stepfather for approximately three years, a harm itself rooted in her gender and vulnerability as a girl, and she then married for the first time at eighteen to a man ten years older, a relationship she entered to escape that abuse.¹⁴ This history of gender-based abuse and the exploitation of Respondent’s vulnerabilities through unequal power dynamics provides the context in which Edivan’s abuse must be evaluated and underscores the cumulative severity of the persecution she endured.

a. Physical Harm

It is well established that physical violence is persecution. *Bringas-Rodriguez v. Sessions*, 850 F.3d 1051, 1073 (9th Cir. 2017) (en banc). Edivan’s physical abuse of Respondent was frequent and escalating: he frequently pulled her hair, pushed, and beat her¹⁵. On April 23, 2023, he repeatedly struck her in the face with the butt of a pistol, injuring her badly enough that she was bleeding and bruised when police arrived.¹⁶ This physical harm was documented by law enforcement, which noted that Respondent sustained a sprain and edema to her left thumb after attempting to wrest the firearm from the aggressor¹⁷. While trying to defend herself, she also cut her left leg so deeply she is scarred to this day¹⁸. Weeks later, he threw her to the floor and stepped on

¹⁴See Respondent’s Declaration, Evidence Part 01, paragraphs 5 to 8, 13.

¹⁵See Respondent’s Declaration, Evidence Part 01, paragraphs, 36, 38, 40.

¹⁶See Respondent’s Declaration, Evidence Part 01, paragraphs 47, 50 to 51, 60 to 61.

¹⁷See Evidence Part 05, Exhibit 2 (Rayane Cristina Gonsaga Guimaraes’ Medical Report, Forensic Medical Examination Report on Bodily Injuries).

¹⁸See Evidence Part 05, Exhibit 5 (Photographs Documenting Scars Sustained as a Result of Abuse); *see also* Respondent’s Supplemental Declaration, Evidence Part 07, paragraph 8.

her neck while raping her at gunpoint.¹⁹ These acts of physical harm independently rise to the level of persecution.

b. Sexual Violence

Since 1995, the former Immigration and Naturalization Service has recognized rape and sexual abuse as forms of persecution warranting particular attention in the adjudication of claims brought by women. INS, *Considerations for Asylum Officers Adjudicating Asylum Claims from Women*, at 9 (1995). These guidelines instruct asylum adjudicators to recognize that female applicants may experience unique "gender persecution," and identify "rape and other forms of severe sexual violence" as examples of physical harm that rise to the level of persecution. *Id.* Similarly, it adverts that the argument of sexual violence as harm should not lead to an automatic conclusion that the claim is an instance of purely personal harm. *Id.*

The Ninth Circuit has consistently held that rape and sexual violence committed within an intimate relationship may qualify as persecution under the Act. *See Lopez-Galarza v. INS*, 99 F.3d 954 (9th Cir. 1996); *Lazo-Majano v. INS*, 813 F.2d 1432, 1434 (9th Cir. 1987). The BIA has likewise recognized that rape is "an extreme form of cruel and inhuman treatment" that qualifies as persecution and constitutes mistreatment sufficiently severe for protection under the Convention Against Torture. *See Matter of H-C-R-C-*, 28 I&N Dec. 809, 813 (BIA 2024).

The physical, psychological, and emotional harms resulting from rape are profound and frequently long-lasting, with enduring effects on survivors' health, well-being, and development, unequivocally rising to the level of persecution. *See Lopez-Galarza v. I.N.S.*, 99 F.3d 954, 962 (9th Cir. 1996).

Respondent was subjected to sexual abuse from a young age, at the hands of her own stepfather, who occupied a figure of guardian and protector, and who weaponized this role of dominance to subjugate the Respondent and explored her vulnerability as a woman and a child²⁰. Respondent was only 10 years old at the time and did not report this abuse; when she did speak out about it, already as an adult, she faced severe social and familial retaliation, as the aggressor was not held accountable at all and the blame was placed on her²¹. It is known that "children may lack the cognitive ability to understand that they are being abused, and that beatings and rapes by adults they should be able to trust are crimes" and "may not only fear retaliation for reporting to authorities, but may also be practically unable to do so because their day-to-day actions are controlled by their abusers". *Bringas-Rodriguez v. Sessions*, 850 F.3d 1051, 1071 (9th Cir. 2017). In Respondent's case, the pattern of sexual abuse is inextricably linked to her status as a woman in Brazilian society and reflects the widespread impunity afforded to men who exploit unequal power dynamics to perpetrate abuse against women and girls.

¹⁹ See Respondent's Declaration, Evidence Part 01, paragraphs 72 to 73.

²⁰ See Respondent's Declaration, Evidence Part 01, paragraph 5.

²¹ See Respondent's Declaration, Evidence Part 01, paragraphs 9-11.

Moreover, Respondent endured repeated marital rape following her 2022 marriage to Edivan, many times held at the threat of a firearm, including one occasion on which he tore out a clump of her hair as he forced himself on her.²² Coerced sexual exploitation by a person wielding coercive power over the victim has been recognized as meeting the severity threshold for persecution. *See Boer-Sedano v. Gonzales*, 418 F.3d 1082 (9th Cir. 2005). That threshold is met many times over here: Edivan forced Respondent to accept degrading sexual practices, photographed her nude without her consent while she slept, and used both those photographs and recordings of their sexual relations as instruments of blackmail whenever she resisted him.²³

Finally, before she fled Brazil, Edivan broke into her home, drew his pistol, threw her to the floor, forced her legs open, stepped on her neck, and inserted the barrel of the pistol into her vagina, telling her she had only a few days to withdraw her criminal complaint against him or she would "wake up with her mouth full of ants," while threatening to kill her and her son.²⁴ Rape committed with a firearm, as an instrument of both sexual violation and death threat, satisfies the persecution standard with particular force. *See Lazo-Majano v. INS*, 813 F.2d 1432, 1434 (9th Cir. 1987).

c. Psychological Harm

Persecution may be emotional or psychological, as well as physical. *See Mashiri v. Ashcroft*, 383 F.3d 1112, 1120 (9th Cir. 2004); *see also Kovac v. INS*, 407 F.2d 102 (9th Cir. 1969). The psychological harm Respondent suffered was severe, sustained, and directly tied to her gender and political stance.

The Ninth Circuit has "consistently held that death threats alone can constitute persecution." *Navas v. INS*, 217 F.3d 646, 658 (9th Cir.2000). The United Nations High Commissioner for Refugees (UNHCR) has also recognized that "[t]hreats of violence or death, even where the applicant has not yet suffered violence, may also amount to persecution where the threat is deemed credible in light of the particular context and background of the applicant." UNHCR, *Guidance Note on Refugee Claims Relating to Victims of Organized Gangs*, at 7 (2010). The Ninth Circuit has also "consistently held that death threats alone can constitute persecution." *Navas v. INS*, 217 F.3d 646, 658 (9th Cir.2000). Edivan repeatedly threatened Respondent at gunpoint, making clear that he would kill her if she defied him or sought protection from the authorities. These threats were not idle or speculative. They were highly credible in light of Edivan's status as a military police officer, his political influence, his demonstrated willingness to use violence, and his ready access to firearms. Edivan possesses both the intent and the means to kill the Respondent and she firmly believes he is capable of carrying out his threats to this day.

Furthermore, Edivan subjected Respondent to sustained degradation: he humiliated her, called her a "whore" and a "slut," and told her she was his woman and had to do everything he

²²See Respondent's Declaration, Evidence Part 01, paragraphs 35 to 38.

²³See Respondent's Declaration, Evidence Part 01, paragraphs 28 to 32.

²⁴See Respondent's Declaration, Evidence Part 01, paragraphs 72 to 74.

wanted²⁵. He directed comparable psychological abuse at her teenage son, calling him slurs and attempting to force him into labor at twelve years of age in defiance of Respondent's wishes.²⁶ He controlled her phone, forbade her from setting passwords, monitored her messages and location, and limited her contact with family and friends, isolating her from any potential source of support.²⁷ He further asserted control over her body and its use, from forcing degrading sexual practices upon her, to using intimate images as blackmail, to concealing his HIV status while continuing to have unprotected relations with her, to insisting that marriage entitled him to do as he wished with her regardless of her own will.²⁸ That psychological abuse operated as a deliberate cycle of manipulation: Edivan positioned himself as the victim in every conflict, leaving Respondent to internalize blame, shame, and guilt, and to doubt her own judgment²⁹. This left profound emotional scars and the Respondent is currently undertaking psychiatric medication to treat the anxiety resulting from her past persecution³⁰.

Combined with the direct death threats levied against her and her son, and the persistent surveillance and control described above, this pattern establishes psychological persecution independent of, and cumulative with, the physical and sexual harm Respondent suffered. Each form of harm independently rises to the level of persecution, and considered cumulatively they establish a course of conduct whose severity cannot be assessed by isolating any single incident from the others. *See Korablina v. INS*, 158 F.3d 1038, 1044 (9th Cir. 1998) (“Persecution may be found by cumulative, specific instances of violence and harassment toward an individual and her family members....”).

3. Respondent Is a Member of Cognizable Particular Social Groups

A particular social group is one whose members share a common immutable characteristic, defined with particularity, and possessing social distinction within the relevant society. *Matter of M-E-V-G-*, 26 I&N Dec. 227 (BIA 2014); *Matter of W-G-R-*, 26 I&N Dec. 208 (BIA 2014); *Matter of Acosta*, 19 I&N Dec. 211, 233 (BIA 1985).

As shown below, under binding Ninth Circuit precedent and the BIA’s own three-part PSG framework, all three PSGs satisfy immutability, particularity, and social distinction, and are not barred by *Matter of A-B- I* (reinstated by *Matter of S-S-F-M-*), *Matter of K-E-S-G-*, or related decisions.

²⁵ See Respondent's Declaration, Evidence Part 01, paragraphs 40 to 41.

²⁶ See Respondent's Declaration, Evidence Part 01, paragraph 42.

²⁷ See Respondent's Declaration, Evidence Part 01, paragraphs 43 to 44.

²⁸ See Respondent's Declaration, Evidence Part 01, paragraphs 17, 26, 28 to 32, and 33 to 34.

²⁹ See Respondent's Declaration, Evidence Part 01, paragraphs 82 to 83.

³⁰ See Evidence Part 06, Exhibit 2, Evidence of Psychological Harm (Pharmacy Prescription Label for Sertraline HCl 50 mg).

a. “Women in a Domestic Relationship with a Member of Brazil's Military Security Forces”

This group is immutable because Respondent cannot alter the fact that Edivan Silva Ferreira is, and was throughout their relationship, a member of Brazil's military and state security apparatus: a retired member of the Goiás Military Fire Department on paid reserve, and later personal bodyguard to the mayor of Senador Canedo.³¹ His retirement to paid reserve does not remove him from the military institution; a member of the paid reserve remains formally attached to the corps and subject to recall. Retirement does not sever the tie with the Military Corps, as the person permanently holds a position within the military rank and an institutional affiliation years after his formal retirement.³² The Board has long recognized that shared past experience, including former military leadership, can supply the immutable characteristic a particular social group requires. *See Matter of Acosta*, 19 I&N Dec. 211, 233 (“The shared characteristic might be an innate one such as sex, color, or kinship ties, or in some circumstances it might be a shared past experience such as former military leadership or land ownership”); *Matter of Fuentes*, 19 I&N Dec. 658, 662 (BIA 1988) (former police officers possess an immutable characteristic). The Ninth Circuit similarly recognized that former police officers may constitute a PSG because former status cannot be changed. *See Cruz-Navarro v. INS*, 232 F.3d 1024 (9th Cir. 2000) (persons who are persecuted because of their status as a former police or military officer may constitute a cognizable social group); *Velarde v. INS.*, 140 F.3d 1305 (9th Cir. 1998). The termination of the domestic relationship does not negate membership in the proposed particular social group. In the eyes of both the persecutor and Brazilian society, the bond created by that relationship endures beyond separation or divorce, rendering the association effectively permanent.

The group is particular because it is bounded by an objective, externally verifiable characteristic of the aggressor, membership in a specific category of state institution, rather than by the persecution itself or by subjective or indeterminate criteria. A nearly identical formulation, “El Salvadorian women in a domestic relationship with a member of the military who are afraid to leave,” was found to require full case-specific reconsideration by the agency rather than summary rejection in *Castro-Henriquez v. Garland*, No. 20-73824 (9th Cir. May 12, 2023).

The group is socially distinct because Brazilian society recognizes both women intimately connected to military security personnel and former members of the military security apparatus as discrete social categories. Former military members retain their identity, status, networks, and public reputation long after leaving service, particularly when they held positions of leadership or political prominence. In *Velarde v. INS.*, 140 F.3d 1305 (9th Cir. 1998), the court emphasized the heightened significance of the petitioner’s politically sensitive role as a bodyguard to the President's daughters; in the present case, after retirement, Edivan occupied a politically influential and

³¹See Respondent's Declaration, Evidence Part 01, paragraph 21; *See also* Evidence Part 05, Exhibit 3 (Proof of Edivan Silva Ferreira's Military Firefighter Status and Authorization to Use Firearm).

³²See Respondent's Declaration, Evidence Part 01, paragraphs 62 to 65, 98.

high-profile position as the Mayor's bodyguard, further underscoring the political visibility and enduring significance of persecutor's former military role. Likewise, intimate partners of such individuals are socially identified through their association with these men and are perceived as subject to their authority and influence. In Brazil, where military and security institutions command significant social and political visibility and gender norms reinforce male dominance within intimate relationships, women in domestic relationships with former military security personnel are viewed as a distinct class whose vulnerability arises precisely from that recognizable association³³.

Military personnel share institutional values and norms that distinguish them as a socially recognizable group. Through military culture and training, they are imbued with ideals of hierarchy, authority, and discipline that, within Brazil's deeply patriarchal context, can reinforce notions of male dominance and entitlement over intimate partners. This institutional conditioning contributes to an expectation that challenges to their authority should be met with coercion or violence. This perception is clearly upheld and validated by Brazilian society, even so that, in cases involving violence perpetrated by civilian or military police officers, there is a prevailing presumption that public security officials are law-abiding³⁴ and a validation of the violent conduct as normal behavior, "permissible among authority figures"³⁵. Another defining characteristic shared by members of this group is their privileged access to firearms and weapons training, which confers a unique capacity to exercise and enforce control through armed intimidation, and is often used to impose obedience and coerce women within domestic contexts³⁶. This combination of institutional authority, military conditioning, and access to firearms distinguishes them from ordinary intimate partners and contributes to their distinct social identity.

The nexus between this group membership and the persecution is direct. Edivan's abuse escalated in tandem with, and drew on, his institutional position: he invoked his military and political standing to intimidate others into believing no one could stand up to him, he kept and used a firearm he was authorized to carry only by virtue of that status, and used his military status to subject the Respondent to his authority³⁷. It was precisely this affiliation with the military institution that furnished him with the means to harm the Respondent and to remain unpunished. The persecution here is not merely coincident with Respondent's membership in this group; it was carried out using the very institutional tools that define the group and shielded from consequence by that same institutional status. The nexus is further affirmed by the context in which the Respondent was inserted: Edivan's own former partner, Luciene Costa Castilho, was subjected to comparable violence, including domestic psychological and physical abuse, and ultimately gunfire from a service-caliber weapon Edivan carried under his firearm authorization³⁸, and a friend of Edivan, also a member of the Firefighter Corps, killed his wife and never faced legal consequences³⁹. This

³³ See Country Conditions, Evidence Part 02, CC12.

³⁴ See Country Conditions, Evidence Part 02, CC12.

³⁵ See Country Conditions, Evidence Part 02, CC5, at 71.

³⁶ See Country Conditions, Evidence Part 02, CC12.

³⁷ See Respondent's Declaration, Evidence Part 01, paragraphs 24, 62 to 65.

³⁸ See Evidence Part 06. Exhibit 1.

³⁹ See Evidence Part 01, Respondent's Declaration, paragraph 80.

demonstrates a pattern of violence directly linked to the victim's domestic relationship with the persecutor, combined with the persecutor's status as a member of Brazil's Military Security Forces.

b. "Brazilian Women Unable to Leave a Domestic Relationship with a Military Officer"

In *Matter of A-R-C-G-*, 26 I&N Dec. 388, 392-393 (BIA 2014), the BIA held that marital status can be considered an immutable characteristic when an individual is unable to leave the relationship, explained by a combination of cultural, societal, religious and economic factors.

Although in *Matter of S-S-F-M-*, 29 I&N Dec. 207 (A.G. 2025), the Attorney General reinstated *Matter of A-B- I & II* and expressly overruled *Matter of A-B- III* "and, by extension, *Matter of A-R-C-G-* ... and any decision issued in reliance thereupon." 29 I&N Dec. at 207-08, that ruling does not create a categorical bar against particular social groups defined by women who are unable to leave their domestic relationships, nor does it free the agency in this Circuit to disregard controlling Ninth Circuit precedent construing *A-B-* and domestic-violence PSGs.

S-S-F-M- simply instructs IJs and the Board to "adhere to *A-B- I* and *A-B- II*" and to resolve PSG questions through "case-by-case adjudication" because "what constitutes a cognizable social group is ... a fact-based inquiry." 29 I&N Dec. at 210 (quoting *Matter of L-E-A- II*, 27 I&N Dec. 581, 586 (A.G. 2019)). It does not hold that groups framed as "women who are unable to leave their relationship" are per se impermissible. Indeed, courts of appeals construing *A-B- I* have rejected that reading and emphasized that such claims must still be evaluated individually. In *Diaz-Reynoso v. Barr*, 968 F.3d 1070 (2020), the Ninth Circuit held that the proposed PSG of "indigenous women in Guatemala who are unable to leave their relationship" was not categorically disqualified and that the BIA had erred by avoiding the case-specific inquiry required by *Matter of A-B-* and its own decisions. The Court emphasized that *A-B-* did not create a categorical exception for domestic-violence victims. *Id.* at 1079-81. It clearly stated that "far from endorsing a categorical bar, the Attorney General emphasized that the BIA must conduct the 'rigorous analysis' set forth in the BIA's precedents." *Id.* at 1079.

Having resolved that issue, the analysis turns to the composition of the proposed particular social group and how Respondent was persecuted on account of her membership in it. One's domestic relationship status is considered immutable, as it should not be required to change. Alternatively, the Ninth Circuit's "voluntary association" test also applies to one's domestic relationship status. Refer to *Hernandez-Montiel v. I.N.S.*, 225 F.3d 1084, 1093 (9th Cir. 2000), overruled on other grounds by *Thomas v. Gonzales*, 409 F.3d 1177 (9th Cir. 2005). Conversely, not every woman who manages to escape her husband necessarily removes herself from the social group of women unable to leave their relationships or severs the nexus between her group and the persecution she suffers. See *Martinez-Martinez v. Sessions*, No. 17-3041 (6th Cir. Jul 24, 2018).

A group that exists “independent of persecution” is one that shares a “narrowing characteristic” other than the harm itself, such as economic, societal, and cultural factors that prevent women from leaving. *See Diaz-Reynoso v. Barr*, 968 F.3d 1070 (9th Cir. 2020), 1082. *Diaz-Reynoso* explained that the petitioner’s inability to leave stemmed from “financial dependence on her husband, limited education, rural location, and an ingrained Mayan cultural view that a relationship does not end until the man so agrees.” *Id.* at 1087. Those factors established that the group was not defined exclusively by harm, but by a “narrowing characteristic” rooted in the surrounding society.

In Brazil, deeply ingrained misogynistic and patriarchal cultural values persist, with women frequently treated as subordinate to men, particularly in domestic relationships. The violence directed at women and girls have a common social and cultural ground: “it is not merely the choice of men, but the reproduction of socially conditioned behaviors”⁴⁰. It is not a private act, but the reproduction of a socially validated norm of gender dominance and prejudice. In the present case, beyond Brazil’s broader patriarchal social norms, the societal expectations associated with military institutions and the roles expected of their members are particularly significant⁴¹. Military culture emphasizes hierarchy, discipline, and unquestioned authority, values that often extend beyond the institutional setting and into the home. As a result, military officers replicate these hierarchical power dynamics in their intimate relationships, perceiving a partner’s attempt to leave or assert independence as a challenge to their authority that must be suppressed. Even after separation, women are often viewed as permanently tied to their former partners. A failed marriage is frequently blamed on the woman, resulting in societal discrimination against her and her children, and a decision to terminate the marriage can be viewed as immoral and an attack on the traditional conservative family institutions.

Respondent’s inability to leave results from a combination of specific coercive mechanisms rather than by fear alone: economic dependence on Edivan as the main provider for the household, religious values, her isolation from any support network, societal expectations concerning the role of a woman within a domestic relationship, an imposed domestic hierarchy, subordination to his political authority, and even physical impediments (given the persecutor possessed a gun and the means to harm or kill the Respondent on an attempt to leave, with certainty of impunity). In other words, the inability to leave here derives both from cultural and social expectations regarding domestic relationships and from Edivan’s military status.

Moreover, the particularity and social distinction prong are well established here, as women in this position of confinement to a relationship classify as a distinct class in the Brazilian society warranting tailored legal protection.⁴² Brazilian Federal Law No. 11.340/2006 (Maria da Penha Law) and Law No. 13.104/2015 (femicide statute) define “violence against

⁴⁰ *See* Country Conditions, Evidence Part 02, CC6, at 77.

⁴¹ *See* Country Conditions, Evidence Part 02, CC5, CC6

⁴² *See* Country Conditions, Evidence Part 02, Country Conditions, CC2, CC4, CC11.

women” and “femicide” by reference to female status. Law No. 11.340/2006 provides for protective measures specifically fit for women “in domestic relationships” (that extends beyond marriage) and accounts for the scenario in which these women cannot leave the relationship because of their deep dependence, designing mechanisms to facilitate a victim's exit from the relationship and to keep the abuser away, among which are the Emergency Protective Measures (EPMs)⁴³. These statutory categories presuppose a clear, administrable understanding of who counts as a “woman” in Brazil. The existence of legislation tailored to a group's characteristics is strong evidence that society recognizes the group as distinct, “even if these laws are unable to produce meaningful change.” *Henriquez-Rivas v. Holder*, 707 F.3d 1081, 1092 (9th Cir. 2013) (en banc). That the protection these laws promise routinely fails in practice, evidenced by the ineffectiveness of the protective measures issued in Respondent's own case, does not defeat social distinction; it confirms it, because the laws exist precisely because Brazilian society recognizes that women in this position are targeted and require protection the state has not made good on.⁴⁴ When considering the Respondent's case, she falls into an even more particular parcel of society, delineated by far more than gender – those confined to relationships with military officers. This group is specifically targeted and experiences unique forms of harm.

The harm Edivan inflicted on Respondent stemmed directly from her inability to leave the relationship. Confident that she could not escape his control, he exercised dominion over her body and autonomy at will, reinforcing her subordinate status through threats, intimidation, and physical violence. The nexus is further established by the timing of the violence itself. Edivan's abuse escalated precisely at the moments Respondent tried to exercise independence from him: when she resisted at the swingers' club, when she called the police, when she pursued the criminal complaint, and when she attempted to leave the marriage entirely.⁴⁵ The persecution was not incidental to her inability to leave; it was the mechanism by which that inability was created and enforced, and it intensified in direct proportion to every step she took toward leaving. That correlation is itself direct evidence that the harm was inflicted on account of her membership in this group, not on account of a private disagreement that happened to occur within the relationship.

c. "Former Intimate Partners of Edivan Silva Ferreira"

Respondent pleads this formulation narrowly, as a group defined by intimate-partner status and a verifiable relationship to Edivan Silva Ferreira. The Attorney General recently reaffirmed that family- and kinship-based groups require particularity and social distinction and rejected any categorical rule recognizing all family or kinship ties as cognizable. *Matter of R-E-R-M- & J-D-R-M-*, 29 I&N Dec. 202 (A.G. 2025).

⁴³ See Country Conditions, Evidence Part 02, Country Conditions, CC2, CC4, CC6, CC11.

⁴⁴ See Country Conditions, Evidence Part 02, CC4, CC6, CC8, CC14 (documented ineffectiveness and non-enforcement of Brazil's domestic violence legal framework).

⁴⁵ See Respondent's Declaration, Evidence Part 01, paragraphs 46 to 53, 71 to 74, 81.

The group is immutable because Respondent's past relationship with Edivan cannot be undone, and it is particular because it is bounded by an objective, verifiable fact: the identity of the aggressor and the existence of a past intimate relationship with him. That two of Edivan's partners, years apart, independently reported strikingly similar violence, control, and firearm use corroborates that his abuse follows a recognizable pattern tied to his perception of intimate partners as subordinate to him rather than a series of unconnected personal disputes.

The group is socially distinct because Brazilian society recognizes former intimate partners of a specific individual, as a discrete class defined by an immutable shared past experience. An intimate relationship creates a socially recognized bond between the individuals that, within Brazil's patriarchal society, renders the partner particularly vulnerable to persecution because of that association. Intimate partner violence is the most common form of gender-based violence in Brazil and 43% of women in Brazil aged 16 or over reported experiencing it; in 2021, 81.7% of femicides were perpetrated by an intimate partner and/or ex-partner, and 65.6% of the victims were killed at home⁴⁶. Furthermore, the relationship creates an enduring social identity that persists beyond its dissolution, particularly where the former partner occupied a position of public prominence and authority. Edivan Silva Ferreira is a well known and political influent person in the entire region, and his status as a former military officer and the Mayor's bodyguard made his intimate relationships publicly identifiable within his community, and those relationships continued to define his former partners in the eyes of both the persecutor and society after the relationship ended. As a result, Respondent's identity as Edivan's former intimate partner constitutes a socially recognizable status, one that exposed her to retaliation, control, and violence distinct from that faced by the general population.

The nexus to this group is confirmed by the parallel pattern across both of Edivan's identified partners. Luciene Costa Castilho, his former wife, and Respondent, his former wife, each independently reported violence involving firearms, threats, and controlling behavior, notwithstanding that the two women do not know each other and their proceedings were filed years apart.⁴⁷ That consistency is not coincidence; it demonstrates that Edivan's violence is triggered by, and directed at, women precisely because they occupy or once occupied the specific position of being his intimate partner, rather than by circumstances unique to either woman individually.

d. "Brazilian Women Viewed as Property by Their Domestic Partners"

The Department of Homeland Security (DHS), in its Supplemental Brief for the *Matter of L-R-*, 14 (BIA Apr. 13, 2009), suggests that “the particular social group in asylum and withholding of removal claims based on domestic violence is best defined in light of the

⁴⁶ See Country Conditions, Evidence Part 02, CC3.

⁴⁷ See Respondent's Declaration, Evidence Part 01, paragraph 78.

evidence about how the respondent's abuser and her society perceive her role within the domestic relationship.”

In this case, the evidence indicates that Edivan believes “women should occupy a subordinate position within a domestic relationship.” He perceives that the respondent would still hold a subordinate role even if she separated from him. *See* DHS’s Supplemental Brief for the *Matter of L-R-*, at 14 (BIA 2009). Edivan told Respondent directly that she was his wife and had to do as he wished, that marriage gave him “the right to do whatever he wanted” with her, and that if she was not his, she would belong to no one.⁴⁸ He treated her as a trophy to display to others as proof that she belonged to him.⁴⁹ It is indisputable, thus, that he perceived the Respondent as his property, at his free disposal and under his complete control. And it was this precise assertion of ownership over the Respondent that motivated Edivan’s attacks on her: he subjected her to constant marital rape because, as his wife, she had to subject to his wishes; he controlled her finances and her social contact with the exact presumption of control over her life and her decision; the swingers’ club assault began with his insistence that she had to do as he wished because she was his wife; and the gunpoint rape was expressly conditioned on her withdrawing the complaint that challenged his authority over her. Because the group is defined by the persecutor’s ownership claim itself, the persecution and the group membership are inseparable, and the harm Respondent suffered is, by definition, on account of that membership.

The shared characteristic in proposition is immutable because it is defined by the aggressor’s own, fixed belief and declared claim of ownership over Respondent, a status she cannot alter through any action of her own.

In *Matter of K-E-S-G-*, the BIA refused the proposed group “Salvadoran women viewed as property”, finding it lacked particularity. The Board held that the group was too “amorphous, overbroad, diffuse, or subjective”, because “the respondent has not presented evidence that “viewed as property” has a commonly accepted definition in El Salvador” and “it is not clear which women are viewed as property or who views them as property”. 29 I&N Dec. 145, 154 (BIA 2025). However, the case in adjudication is distinguishable from the one in *K-E-S-G-*. Here, the particularity prong is duly satisfied: the proposed formula indicates persecution on account of *the domestic partner’s* perception of that woman as a property, restricting the group to women in domestic relationships and perceived in such a way by their domestic partner. It is not broad, amorphous or diffuse: it comprises a distinct segment of Brazilian society constituted by women viewed as property and placed in a situation of subordination to their domestic partner.

Furthermore, country conditions evidence presented on the record clearly demonstrate that women viewed as property by their domestic partners are perceived by Brazilian society as a distinct category, identifiable by the shared immutable and particular trait of a domestic

⁴⁸See Respondent’s Declaration, Evidence Part 01, paragraphs 33, 41, 46, 48.

⁴⁹See Respondent’s Declaration, Evidence Part 01, paragraph 25.

relationship and the partner's perception of property and ownership within that relationship. Maria da Penha Law's own legislative motives drive from the recognition that men, in Brazil, view their partners as property, and thus designed protective mechanisms on the basis that "the aggressor is incapable of committing such an act because he is not the owner of the woman"⁵⁰. This means Brazil's own legal framework recognizes the perception of property and ownership as a motivation for domestic violence.

4. Respondent Was Persecuted on Account of Her Political Opinion of Resistance to Edivan's Patriarchal Dominance Over Her

An imputed political opinion, whether correctly or incorrectly attributed, can constitute persecution on account of political opinion. *See Hernandez-Chacon v. Barr*, 948 F.3d 94, 102 (2d Cir. 2020). The Supreme Court requires evidence of the persecutor's motive. *See INS v. Elias-Zacarias*, 502 U.S. 478, 482-83 (1992). Political opinion "encompasses more than electoral politics or formal political ideology." *Ahmed v. Keisler*, 504 F.3d 1183, 1192 (9th Cir. 2007). Persecution is motivated by political opinion when the persecutor is "in part motivated by an assumption that [the applicant's] political views were antithetical" to those of the persecutors. *Matter of S-P-*, 21 I&N Dec. 486, 494 (BIA 1996). Courts assess political opinion broadly within the political context of the country. *See Castro v. Holder*, 597 F.3d 93, 100-06 (2d Cir. 2010); *Yueqing Zhang v. Gonzales*, 426 F.3d 540, 545-48 (2d Cir. 2005).

Country Conditions reports reveal that domestic violence against women in Brazil is widespread and rooted in a macho culture that places men at the top of the societal hierarchy. This culture grants men control over many aspects of women's lives, including their economic and sexual autonomy. Men often perceive it as their right to dominate women, and those who challenge this patriarchal order frequently face consequences from both their husbands and extended families⁵¹.

Respondent's resistance to Edivan's dominance in the relationship and asserted right to control her constitutes a political opinion independent of, though related to, her particular social group claims. When Edivan pressured Respondent into formal marriage in 2022, he told her directly that marriage would give him "the right to do whatever he wanted with" her.⁵² Respondent, a religious woman, questioned this ideology of ownership at the time; Edivan responded that once they were married on paper, nothing that happened between them would matter to God.⁵³ Respondent's opposition to this ideology was not merely private discomfort but a sustained, articulated rejection of the terms on which Edivan claimed authority over her. Nor is this the first time Respondent's resistance to a controlling partner provoked retaliation: her earlier partner, Mauro Reis Guaracy Junior, did not allow her to work or study, and when she asserted her independence by doing both regardless, the relationship ended and he stalked her for a period afterward, threatening

⁵⁰ See Evidence Part 02, Country Conditions, CC6, 85.

⁵¹ See Evidence Part 02, Country Conditions, CC5, CC6, CC8.

⁵² See Respondent's Declaration, Evidence Part 01, paragraph 33.

⁵³ See Respondent's Declaration, Evidence Part 01, paragraph 34.

to take her son from her if she did not return to him.⁵⁴ Respondent's opposition to Edivan's ideology of ownership is therefore consistent with a documented pattern in her life, not an isolated reaction unique to this relationship.

That rejection is documented most directly in the April 2023 incident. When Edivan ordered Respondent into a swingers' club, invoking his authority as her husband, telling her "you are my wife, you have to do what I want," Respondent refused, both in the moment and while he beat her with his pistol as he drove, telling him she would not fulfill his demands under any circumstances.⁵⁵ Respondent then reported the assault to the police while it was still in progress, disguising the call as a conversation with friends, sharing her live location, and recording Edivan's threats as they were made.⁵⁶ Once free of him, she gave the police a full account of the assault, showed them where Edivan had discarded his weapon, and sought and obtained a restraining order.⁵⁷ After the Respondent sought the authorities and reported Edivan's behavior to law enforcement, persecution intensified, as the harm intended to punish the Respondent for publicly expressing a position antithetical to that of his complete and deliberate control over her body and her decisions. When she reported the incident, she made her stance against the patriarchal views of subordination held by the persecutor clear, and this deepened his anger. He consequently invaded her home, raped her with a gun and threatened her with death with the intent of repressing and correcting this political stance and resubmit her to his control⁵⁸. He tried to affirm his own belief over the Respondent's through physical, sexual, and psychological violence. Rape and sexual abuse committed to enforce a persecutor's ideology of ownership over a woman have long been recognized as persecution against which resistance may constitute or give rise to an imputed political opinion. *Lazo-Majano v. INS*, 813 F.2d 1432, 1434 (9th Cir. 1987). The persecution was thus expressly and explicitly conditioned on Respondent's withdrawal of the very complaint her resistance had produced, which is direct evidence that the harm was inflicted on account of that resistance rather than on account of a private, apolitical quarrel.

Respondent could not undo what she had already set in motion⁵⁹ Despite this, Respondent testified in full before the judge, the prosecutor, and Edivan himself, recounting everything that had happened to her. In her own words, she is certain that Edivan perceived her testimony as a confrontation to his authority, but she needed to tell her story regardless.⁶⁰ A persecutor's own understanding of the victim's conduct as a challenge to his authority is significant, direct evidence of the reason for the persecution. Edivan's continuing pursuit of Respondent across the distance she placed between them confirms that his motive has always been to punish and reverse her defiance, not to resolve a finished domestic dispute.

⁵⁴See Respondent's Declaration, Evidence Part 01, paragraph 20.

⁵⁵See Respondent's Declaration, Evidence Part 01, paragraphs 46 and 48 to 50.

⁵⁶See Respondent's Declaration, Evidence Part 01, paragraphs 52 to 53.

⁵⁷See Respondent's Declaration, Evidence Part 01, paragraphs 60 and 66.

⁵⁸See Respondent's Declaration, Evidence Part 01, paragraphs 71-74.

⁵⁹See Respondent's Declaration, Evidence Part 01, paragraph 76.

⁶⁰See Respondent's Declaration, Evidence Part 01, paragraph 77.

Respondent's individual acts of resistance did not occur in a vacuum. Brazil's own institutions and civil society recognize that violence against women is systemic rather than incidental, that protective measures under the Maria da Penha Law are documented to fail in practice, and that women who report and pursue charges against domestic aggressors are set apart within Brazilian society precisely because so few do so and survive the consequences.⁶¹ Respondent's decision to report Edivan, to maintain that report against sustained threats, to testify against him in person, and ultimately to leave the country rather than submit to his authority, is properly understood against that backdrop as opposition to an entrenched social and institutional order that assigns women a subordinate position and punishes those who reject it, and not merely as a private response to a private wrong.

5. Respondent's Protected Grounds Were At Least One Central Reason for the Persecution She Suffered

The persecution Respondent suffered was motivated centrally by her membership in the particular social groups pled above and by her political opinion of resistance to Edivan's patriarchal dominance over her. An asylum applicant must show that a protected ground was, or will be, at least one central reason for the persecution, while an applicant for withholding of removal need only show that it was a reason. *Barajas-Romero v. Lynch*, 846 F.3d 351 (9th Cir. 2017); *Umana-Escobar v. Garland*, 62 F.4th 1223 (9th Cir. 2023). The facts recounted above satisfy the more demanding asylum standard, since Edivan's abuse consistently escalated at the precise moments Respondent asserted independence from him or exercised her right to seek protection from the state, from the swingers' club confrontation, through the arrest and its aftermath, to the gunpoint assault expressly conditioned on withdrawal of her complaint.⁶² In addition, the fact that the pattern reported here is not confined to Respondent, but extends to a former partner who is likewise a member of the proposed groups, indicates that the persecution here is tied to the aggressor's view of women in that relational position generally.⁶³

Accordingly, the argument that Edivan's abuse reflects a private or personal dispute rather than persecution on account of a protected ground fails here, because the violence inflicted on the Respondent was motivated by her membership in the outlined cognizable groups as well as her political opinion. The nexus is indisputable. Even where a personal dimension to the relationship also exists, a persecutor's mixed motives do not defeat a properly grounded claim. See *Barajas-Romero v. Lynch*, 846 F.3d 357 (9th Cir. 2017) (holding that persecution does not need to be *solely* derived from the protected ground).

The Brazilian government's own charging instrument reaches the same conclusion. In the formal complaint filed against Edivan, the Public Prosecutor charged that he offended Respondent's physical integrity “on grounds of the victim's female gender” that is, by reason of her condition as a

⁶¹See *Country Conditions, Evidence Part 02*.

⁶²See *Respondent's Declaration, Evidence Part 01*, paragraphs 46 to 50, 69, and 71 to 73.

⁶³See *Evidence Part 06* (Police Report).

woman, within the context of the Maria da Penha Law.⁶⁴ Where the government charged with prosecuting the persecutor has itself formally attributed his violence to the victim's gender, the nexus inquiry is not a matter of inference.

The proposed cognizable groups are also not impermissibly defined by the persecution itself: each formulation above is bounded by a characteristic, institutional status, relationship history, specific coercive mechanisms of control, or gender, that existed independently of and prior to the harm inflicted. That the same characteristics also explain the severity of the harm and the state's unwillingness to intervene does not make the groups circular; it makes the nexus and the government's acquiescence more clearly established.

6. The Brazilian Government Is Unable and Unwilling to Protect Respondent

Respondent's claim rests on the government's own documented response to her case, not on general country conditions alone. Four aspects of that response, each drawn from the record, establish that Brazilian authorities are both unable and unwilling to protect her.

First, notwithstanding Edivan's illegal possession of a firearm, his intoxicated operation of a vehicle, and a contemporaneous recorded death threat, the court granted him provisional release less than twenty-four hours after his arrest, reasoning that he was a first-time offender with a fixed address and lawful occupation.⁶⁵ The protective measures imposed alongside that release were limited to sixty days of electronic monitoring.

Second, the same court subsequently revoked even those limited protective measures after⁶⁶. The record now establishes exactly what led to that request. In the days beforehand, Edivan broke into Respondent's home at night, held her at gunpoint, warned her she had only days left to withdraw the complaint or she would "wake up with her mouth full of ants," and raped her with the barrel of his own pistol while threatening to kill both her and her son.⁶⁷

Third, the protective measures issued in Respondent's case did not merely go unenforced after their revocation; they were violated while still formally in effect. Edivan approached Respondent notwithstanding the restraining order, and calling the police produced no response, and he was never arrested again despite continuing to stalk, threaten, and assault her, because officers who recognized him released him and he understood that nothing would truly happen to him.⁶⁸ That a Brazilian court could revoke the only protective mechanism available to Respondent, rather than reinforce it after this documented pattern of noncompliance, confirms that no protective mechanism actually available to Respondent in Brazil functions to protect her. This is not an isolated failure. Emergency protective measures under the Maria da Penha Law are documented to fail systemically

⁶⁴See *Evidence Part 05, Exhibit 3* (Criminal Complaint Filed Against the Persecutor).

⁶⁵See *Evidence Part 05, Exhibit 3* (Ruling in Custody Hearing: Granted Provisional Release Without Bail), pages 88 to 96.

⁶⁶See *Evidence Part 05, Exhibit 4* (Petition for Revocation of Protective Measures and Retraction), pages 122 to 131; see also (Victim's Hearing Record Regarding Request for Protective Measures), pages 134 to 139.

⁶⁷See *Respondent's Declaration, Evidence Part 01*, paragraphs 72 to 73.

⁶⁸See *Respondent's Declaration, Evidence Part 01*, paragraphs 67 to 70.

nationwide, and nearly one in three femicide victims in Brazil had already reported their attackers to authorities before being killed.⁶⁹ Respondent's own experience is thus representative of a national pattern of protective failure, not an aberration.

Fourth, the government's institutional unwillingness to hold Edivan accountable is not limited to Respondent's case, and it is not limited to inaction. The police inquiry concluded and was administratively archived following the investigative report and recommendation for indictment,⁷⁰ but the Public Prosecutor's Office did not formally charge Edivan until nearly three years after his arrest, when it filed an Indictment expressly charging that he offended Respondent's physical integrity because of her condition as a woman.⁷¹ A nearly three-year delay in bringing formal charges, in a case where the aggressor was arrested in the act, is itself strong evidence of institutional unwillingness to act with urgency to protect a victim of gender-based violence, whatever the eventual outcome of the prosecution. Luciene Costa Castilho's report against the same aggressor, opened under Police Inquiry No. 19/2018, remains unresolved seven years later, with a trial hearing only now set for April 15, 2026.⁷²

The unable-or-unwilling inquiry requires meaningful, individualized consideration of the applicant's own experience with state authorities as part of the totality of the evidence. *Bringas-Rodriguez v. Sessions*, 850 F.3d 1051 (9th Cir. 2017) (en banc). That inquiry does not require a showing that the government affirmatively supported the persecution, only that it failed to control it. *Ornelas-Chavez v. Gonzales*, 458 F.3d 1052 (9th Cir. 2006). Because Edivan is himself an agent of the state, his continued freedom and his retention of his position as security to the mayor of Senador Canedo also support a finding of government acquiescence, addressed further below in connection with Respondent's claim under the Convention Against Torture.

7. Respondent Has a Well-Founded Fear of Future Persecution

Respondent's past persecution gives rise to a presumption of a well-founded fear of future persecution, which the government bears the burden of rebutting under either of two independent prongs: a fundamental change in country conditions, or the reasonable availability of internal relocation. 8 C.F.R. Section 1208.13(b)(1)(i) to (ii). The record here does not merely fail to rebut that presumption on either prong; it affirmatively reinforces it on both.

On the first prong, conditions have not changed. Edivan remains at liberty in Brazil and retains the institutional connections that have shielded him from consequence throughout both

⁶⁹See Country Conditions, Evidence Part 02, CC4, CC6, CC8, CC9, CC12, CC14.

⁷⁰See Evidence Part 05, Exhibit 3 (Investigative Police Report with Conclusion of Indictment), pages 106 to 109; see also (Order to Archive the Case Files).

⁷¹See Evidence Part 05, Exhibit 3 (Criminal Complaint).

⁷²See Evidence Part 06, Exhibit 1.

proceedings against him.⁷³ He has told Respondent directly that he will find her even in the United States, in his own words, "even if it's in hell"⁷⁴.

Moreover, country conditions evidence confirms that this is not an isolated failure of protection but a continuing, documented national pattern: since 2021, the efforts of the Brazilian government to combat femicide have been reported to have declined⁷⁵, and, in 2025, Brazil recorded its highest levels of femicides on record, whereas, just like the Respondent, 30% of the victims had already reported the aggressor, proving the futility of reporting and the continuous disinterest and inability of the State to protect such women.⁷⁶ Far from an argument of improved country conditions, the situation for women, particularly within domestic relationships, have actually deteriorated.

On the second prong, relocation is factually impossible and legally impermissible. Respondent cannot modify her gender, her tie to Edivan Silva Ferreira or his military affiliation. As discussed in length above, these are all immutable permanent characteristics which the Respondent cannot alter and should not be expected to do so. Additionally, gender-based persecution for women confined in domestic relationships, particularly to military officers, is not concentrated in any single region, it is omnipresent nationwide, given its cultural nature⁷⁷. There is no region in the country that does not account for violence against women. Respondent's own history confirms this: she left her home state of Pará, where she suffered childhood sexual abuse, and rebuilt her life across the country in Goiás, only to be subjected to years of escalating violence by Edivan there.⁷⁸ Besides, Edivan possesses the resources to locate the Respondent anywhere in the country⁷⁹, given his political influence, military status, and connections within law enforcement – relocation would ultimately be futile and not prevent future persecution at all. Where an aggressor's persecutory reach is tied to a nationwide institutional network rather than to a purely local capacity, and where the applicant's own experience already shows that crossing the country did not provide safety, relocation within the same country does not defeat a well-founded fear. *See Akosung v. Barr*, 970 F.3d 1095 (9th Cir. 2020).

8. Alternatively, Respondent Merits a Discretionary Grant of Humanitarian Asylum

Should this Court find that Respondent, having already established past persecution, does not have a well-founded fear of future persecution, asylum remains available on humanitarian grounds under 8 C.F.R. Section 1208.13(b)(1)(iii).

⁷³See Respondent's Declaration, Evidence Part 01, paragraphs 68 to 70 and 105 to 107; Evidence Part 07, Respondent's Supplemental Declaration, paragraph 6.

⁷⁴See Respondent's Declaration, Evidence Part 01, paragraphs 98 to 104.

⁷⁵See Country Conditions, Evidence Part 02, CC5.

⁷⁶See Country Conditions, Evidence Part 02, CC9.

⁷⁷See Country Conditions, CC6.

⁷⁸See Respondent's Declaration, Evidence Part 01, paragraphs 1, 4, 15, 21.

⁷⁹See Respondent's Declaration, Evidence Part 01, paragraph 98.

Subsection (A) permits a grant based on the severity of past persecution alone, reserved for particularly severe or atrocious cases. The persecution here, including lasting lifelong sexual abuse, repeated marital rape, physical assault with a firearm, and the subsequent gunpoint rape in which Edivan inserted the barrel of his own pistol into Respondent while threatening to kill her and her son, meets that standard, and its psychological trauma is corroborated by Respondent's ongoing treatment and medication.⁸⁰ The cumulative severity and duration of this persecution constitute the kind of "atrocious forms of persecution" that *Matter of Chen*, 20 I&N Dec. at 19, identifies as compelling reasons for being unwilling to return, independent of any change in country conditions.

Subsection (B) permits a grant based on other serious harm Respondent would face upon removal, independent of the original persecution. Respondent faces a documented threat that Edivan will find her wherever she is, in a country where he retains institutional protection, and that is unable and unwilling to protect her. She faces equally severe risk of harm and torture because of her condition as a woman alone, in the country with the fifth highest rates for gender-based violence⁸¹. Removal would also uproot the family life Respondent has since built in the United States, separating her from her partner and her child at a stage when her ongoing psychological treatment and her child's care depend on the stability she has achieved here⁸². *Matter of L-S-*, 25 I&N Dec. 705 (BIA 2012).

B. In the Alternative, Respondent Is Entitled to Withholding of Removal

Withholding of removal requires a clear probability, meaning it is more likely than not, that Respondent's life or freedom would be threatened on a protected ground if she is removed to Brazil. INA § 241(b)(3), 8 U.S.C. § 1231(b)(3). Unlike asylum, withholding is mandatory once the standard is met. The past persecution described above, Edivan's continuing freedom and institutional position, his explicit threat that he will find Respondent no matter what, and the seven-year pattern of impunity corroborated by Luciene Costa Castilho's still-pending case together establish that it is more likely than not Respondent would face life-threatening harm on account of her particular social group and political opinion if removed.⁸³

C. In the Alternative, Respondent Is Entitled to Protection Under the Convention Against Torture

Torture under the Convention requires severe pain or suffering intentionally inflicted for a prohibited purpose, with the involvement or acquiescence of a public official. 8 C.F.R. Section 1208.18(a). Respondent has already experienced conduct meeting this definition at the hands of a

⁸⁰ See Respondent's Declaration, Evidence Part 01, paragraphs 35 to 39, 45 to 51, and 72 to 73; Evidence Part 06, Exhibit 2.

⁸¹ See Evidence Part 02, Country Conditions, CC3.

⁸² See Evidence Part 07, Respondent's Supplemental Declaration.

⁸³ See Respondent's Declaration, Evidence Part 01, paragraphs 68 to 70 and 98; Evidence Part 06, Exhibit 1.

public official. Edivan, acting as an armed state security agent, forced her into his vehicle, struck her repeatedly with his pistol, and threatened to shoot her in the face, and later raped her at gunpoint in her own home while threatening to kill her and her son, all while employed in a position tied to the local government.⁸⁴ Edivan is affiliated with the Goias Military Fire Department – a tie that vests him with a military status and an unseverable tie to the military institution in Brazil – which means part of the persecution the Respondent endured was inflicted by a public official, with direct complicity and negligence of law enforcement authorities.

Government acquiescence does not require proof that the state directed the harm; awareness, including willful blindness, coupled with a failure to intervene despite the legal responsibility to do so, is sufficient. *Aguilar-Ramos v. Holder*, 594 F.3d 701 (9th Cir. 2010); *Cole v. Holder*, 659 F.3d 762, 771 (9th Cir. 2011). That standard is met here. Edivan is himself a state agent, and the judiciary that processed his arrest granted him provisional release within a day and took nearly three years to bring formal charges, while a separate, unrelated victim's case against the same man has remained open for seven years.⁸⁵ Given this documented institutional tolerance, it is more likely than not that Respondent would face torture if returned to Brazil, with no realistic prospect of state protection.

V. CONCLUSION

For the foregoing reasons, Respondent respectfully requests that the Court grant her application for asylum. In the alternative, Respondent respectfully requests that the Court grant withholding of removal under INA Section 241(b)(3), or, in the further alternative, protection under the Convention Against Torture, whether by withholding of removal or by deferral of removal.

Sincerely,



Otavio Haverroth Silva
Attorney at Law
Bar n. 343486

⁸⁴ See Respondent's Declaration, Evidence Part 01, paragraphs 46 to 51 and 72 to 73; See Evidence Part 06, Exhibit 3 (Proof of Edivan Silva Ferreira's Military Firefighter Status and Authorization to Use Firearm).

⁸⁵ See *Evidence Part 05, Exhibit 3* (Ruling in Custody Hearing: Granted Provisional Release Without Bail), pages 88 to 96; See also Evidence Part 05, Exhibit 3.

Rayane Cristina Gonsaga Guimarães

File No. A 249-261-932

Proof of Service

On this day, I, Otavio Haverroth Silva, served a copy of the following documents:

**RESPONDENT'S LEGAL BRIEF IN SUPPORT OF APPLICATION
FOR ASYLUM, WITHHOLDING OF REMOVAL AND
PROTECTION UNDER CAT**

To the following:

Office Location: Office of the Principal Legal Advisor Department of Homeland Security 915 Second Avenue, Suite 708 Seattle, WA 98174	Mailing Address: US Immigration and Customs Enforcement US Department of Homeland Security Office of the Principal Legal Advisor Department of Homeland Security 915 Second Avenue, Suite 708 Seattle, WA 98174
--	--

by:

- ☒ Through the EOIR Courts and Appeals System (ECAS), which will automatically send service notification to both parties that a new document has been filed.



Otavio Silva (Bar N. 343486)
Attorney at Law
P.O. Box 90487
San Diego, CA 92169
Counsel for Respondent