

# **“DISCRIMINATION AGAINST WOMEN AT THE BORDER”**

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## **I. INTRODUCTION**

Female refugees and immigrants come to America for numerous reasons: for access to healthcare, to search for career opportunities, and sometimes, to fight a battle of life and death by seeking asylum.

Seeking asylum, though, poses different challenges for women who are fleeing countries in fear of violence (sexual and physical). 8 U.S.C. § 1101(a)(42)(A) states refugees may seek asylum if he or she fears or has already experienced prosecution on issues pertaining to one of five protected grounds: race, religion, nationality, membership in a social or in a political opinion.<sup>1</sup> Note, gender is not a protected ground. This suppresses the chance for a refugee woman to seek asylum since domestic and sexual violence do not qualify as a protected category.

The journey to America to flee violence is not easy. In recent years, during the Trump era, mothers were separated at the border from their children and refugees were regularly denied entry to the States. The pattern of sending people back to their homes where they face violence, and the lack of specific law protecting women as a class in these situations significantly impacts the global economy. The policy of rejecting asylum seekers has significant impacts; it limits women's role in society by restricting career opportunity and education, but most importantly, takes away human rights like health, freedom, and safety. While efforts like the Violence Against Women's Act (VAWA) work to protect women from dating violence, sexual assault and stalking, courts have been faulty in applying a consistent standard for women facing violence.<sup>2</sup>

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<sup>1</sup> 8 U.S.C. § 1101(a)(42)(A).

<sup>2</sup> See Violence Against Women Act.

This paper will discuss the history of refugee law and analyze how VAWA has impacted the process of seeking asylum for women escaping violence. Additionally, a discussion of how the Trump era has significantly impacted the court's application of the Act in comparison to the Biden Administration will be addressed. Women trying to escape violence in their home country face discrimination for simply seeking asylum, not just in the U.S., but around the world. Research presented here will show this form of discrimination deprives women of safety and freedom everywhere. This paper will focus on efforts to fight that gender-based discrimination in asylum and immigration law in U.S. proceedings.

## **II. THE LAW ON SEEKING ASYLUM FOR WOMEN FLEEING VIOLENCE**

### **A. History of Seeking Asylum**

Prior to VAWA being passed in 1994, seeking asylum for women overall posed hardships.<sup>3</sup> Before VAWA, women in domestic violence relationships, those at risk of sexual assault, dating violence or stalking, and refugees fleeing nations where government restricted freedom based on gender, experienced little success in seeking asylum. Because of this lack of protection, harms such as domestic violence, female genital mutilation, trauma, and rape were unrecognizable by the courts, thus ignoring serious harms from women.<sup>4</sup>

The United States offers a unique solution to aiding people in need of escaping their home countries by providing protection many other nations cannot provide due to a lack of government assistance, funds, political uproar, and even mere disregard to minority-based issues

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<sup>3</sup> Deborah Anker, *The History and Future of Gender Asylum Law and Recognition of Domestic Violence as a Basis for Protection in the United States*, AMERICAN BAR ASSOCIATION, April 27, 2020 (Accessed on Nov. 25, 2022)

[https://www.americanbar.org/groups/crsj/publications/human\\_rights\\_magazine\\_home/immigration/the-history-and-future-of-gender-asylum-law/](https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/immigration/the-history-and-future-of-gender-asylum-law/).

<sup>4</sup> *Id.*

like gender-based violence or LGBTQ+ hate crimes. Our nation has recognized that reality, and it has responded best to the need to implement international asylum law when the world faced political chaos and global devastation. The United Nations High Commissioner for Refugees defines asylum as, "...a form of protection which allows an individual to remain in the United States instead of being removed (deported) to a country where he or she fears persecution or harm."<sup>5</sup> Specifically, people who flee their homeland due to a fear of persecution may apply for asylum, thus the U.S. granting them both protection and the right to stay in the U.S.<sup>6</sup>

The first major asylum act the U.S. passed was the Refugee Relief Act of 1953, which sought to help refugees escape Communism from the Soviet Union and Eastern Germany by disqualifying men from military operations by becoming U.S. citizens.<sup>7</sup> "Refugee" was defined as any person, who because of persecution or fear of persecution, could not return to his usual place of abode and who is in urgent need of assistance for the essentials of life.<sup>8</sup> The Refugee Relief Act of 1953 ultimately authorized nearly 200,000 visas for those escaping communist countries, but monumental changes since then occurred thanks to world politics and international agreements.<sup>9</sup>

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<sup>5</sup> *What is Asylum?* The UN Refugee Agency, (Accessed on Nov. 25, 2022) <https://help.unhcr.org/usa/applying-for-asylum/what-is-asylum/>.

<sup>6</sup> *Id.*

<sup>7</sup> U.S. Citizenship and Immigration Services, *Refugee Timeline*, 2021, (Accessed on Nov. 25, 2022) <https://www.uscis.gov/about-us/our-history/history-office-and-library/featured-stories-from-the-uscis-history-office-and-library/refugee-timeline>.

<sup>8</sup> Refugee Relief Act of 1953, Pub. L. No. 83-203, §2(a), 67 Stat. 400, 400 (1953).

<sup>9</sup> U.S. Citizenship and Immigration Services, *Refugee Timeline*, 2021, (Accessed on Nov. 25, 2022) <https://www.uscis.gov/about-us/our-history/history-office-and-library/featured-stories-from-the-uscis-history-office-and-library/refugee-timeline>.

The next world catastrophe to influence refugee reform was the Vietnam War.<sup>10</sup> The Refugee Act of 1980 was passed by Congress after an influx of Vietnamese and Cambodian refugees, which created a uniform policy adopted by the United Nations Refugee Protocol.<sup>11</sup> This increased the number of refugees who could seek asylum and ultimately set the law to what is now 8 U.S.C. § 1101(a)(42)(A), which states that a refugee may seek asylum if he or she fears or has already experienced prosecution on issues pertaining to one of five protected grounds: race, religion, nationality, membership in a social or in a political opinion.<sup>12</sup>

In both instances, the U.S. responded to international conflicts to help those in danger flee their homelands to seek safety within the States. However, one important class was not protected nor mentioned – women. Before the VAWA, the U.S. failed to protect women escaping violent situations despite the refugee laws in place.

In 1987, *Campos-Guardado v. Immigration and Naturalization Service* was heard in the United State Court of Appeals for the Fifth Circuit during the period of civil wars and genocides in Central America.<sup>13</sup> 2. In this case, a Salvadoran woman, Sophia Campos-Guardado, illegally entered the U.S. after witnessing and experiencing gruesome violence against them and family members.<sup>14</sup> Campos' uncle, a leader of an agricultural cooperative who was involved in a controversial land-reform movement, and her male cousins were hacked with machetes and shot to death as Campos and her female cousin were forced to watch.<sup>15</sup> After these horrific events, both Campos and her female cousin were raped and attacked. They ultimately escaped

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<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> 8 U.S.C. § 1101(a)(42)(A).

<sup>13</sup> *Campos-Guardado v. Immigration and Naturalization Service*, 809 F.2d 285 (5<sup>th</sup> Cir. 1987).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

Guatemala to avoid death.<sup>16</sup> Attempting to seek asylum under political opinion, the court ruled Campos was not eligible because she, herself, was not attacked for her own political opinion, but the opinion of her uncle. Campos was denied asylum and ordered to be deported.<sup>17</sup>

Perhaps the most famous case showing this discrimination in gender-based crimes, *Fatin v. INS*, led to both the Board of Immigration and the Court of Appeals for the Third Circuit denying protection to an Iranian woman who sought asylum for her feminist views and reluctance to wear a veil in public in her home state.<sup>18</sup> The Iranian native studied abroad in the United States and had feminist views and a desire to leave the Muslim religion, a religion she would be forced to follow if she was sent back to Iran absent a grant of asylum.<sup>19</sup> Her vocal opinion of disagreement with the Iranian religious-based government laws led to her family facing persecution, but Fatin expressed she would ultimately wear a veil despite her views, if it meant life or death.<sup>20</sup> Because of this statement, the court found she was not at risk of persecution, harm, or death because she was willing to wear a veil to avoid such harms.<sup>21</sup> The court concluded she simply had different morals that disagreed with her government's, thus, she was not categorized as a socially protected class.<sup>22</sup>

The fact that Fatin was denied protection on an issue only women can face (wearing a veil (hijab) that the Muslim religion requires for women), the issue of discrimination of gender became apparent, and thus, the case of *Fatin* was revolutionary for refugee women seeking asylum. Cases like *Fatin* did not go unnoticed by the public eye, and just one short year later,

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<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Fatin v. INS*, 12 F.3d 1233 (3<sup>rd</sup> Cir. 1993).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

Congress passed the Violence Against Women Act – an act designed to aid victims of domestic violence, assault and stalking along with providing asylum to refugees.<sup>23</sup>

## **B. The Introduction of VAWA**

VAWA encompassed many purposes behind its legislative intent. It sought to enhance investigations of sex offenses, provide grant programs that aimed to improve law enforcement and victims of violence, and establish an opportunity to protect abused aliens.<sup>24</sup> This protection for noncitizens was directed towards those who have been abused by a U.S. citizen or lawful permanent resident relative, and allowed victims to seek safety from their abusers by filing this application independently for themselves, otherwise known as “self-petition.”<sup>25</sup> Self-petition allows filing for the protection without the abuser’s knowledge, consent, and participation in the immigration process, thus allowing battered women a safe escape.<sup>26</sup> Under the Immigration and Nationality Act (INA), VAWA self-petitioners seeking asylum must prove six prongs: (1) a qualifying abuser; (2) qualifying relationship; (3) a good faith marriage; (4) battery or extreme cruelty; (5) residency with the abuser; and (6) good moral character.<sup>27</sup>

For element one, a qualified spouse is defined as the abuser being a U.S. citizen or legal permanent resident, arguably the easiest prong to prove, along with prong two, showing the qualified relationship being a legal marriage with a valid certificate.<sup>28</sup> Self-petitioners then move on to show a good faith marriage as prong three, the key factor being that the person entered into

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<sup>23</sup> See Violence Against Women Act.

<sup>24</sup> *The Violence Against Women Act (VAWA): Historical Overview, Funding, and Reauthorization*, Cong. Rsch. Serv., April 23, 2019, (Accessed on Nov. 25, 2022) <https://sgp.fas.org/crs/misc/R45410.pdf>.

<sup>25</sup> *Abused Spouses, Children and Parents*, U.S. CITIZEN & IMMIGR. SERV., April 4, 2022, (Accessed on Nov. 26, 2022) <https://www.uscis.gov/humanitarian/abused-spouses-children-and-parents>.

<sup>26</sup> *Id.*

<sup>27</sup> INA § 204(a)(1)(A).

<sup>28</sup> INA § 204(a)(1)(A)(i).



the marriage with the intent to establish a life together with the spouse at the time of marriage.<sup>29</sup> The petitioner does not need to be living with the spouse nor does the marriage need to currently be valid to satisfy this element.<sup>30</sup> Prong four then asks the petitioner to identify he or she is the victim of battery or extreme cruelty.<sup>31</sup> The definition for “battery or extreme cruelty” is broad and explains it as, “being the victim of any act or threatened act of violence, including any forceful detention, which results or threatens to result in physical or mental injury.”<sup>32</sup> Abusive actions which in and of themselves do not initially appear violent but are part of an overall pattern of violence, may also qualify as acts of violence under certain circumstances.<sup>33</sup> To prove battery, evidence may include but are not limited to reports and affidavits from law enforcement or medical personnel, school officials, clergy, social workers, and other social service agency personnel, protection orders, shelter records, and photographs supported by affidavits.<sup>34</sup> To satisfy the requirement for prong five, residency with the abuser, the petitioner may show utility receipts, school records, hospital or medical records, birth certificates of children born in the United States, deeds, mortgages, insurance policies, affidavits, and more.<sup>35</sup> Lastly, prong six, the petitioner must show he or she is of good moral character which is shown through affidavits from friends, family, landlords, employers, and more, preferably within the past three years.<sup>36</sup>

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<sup>29</sup> INA § 204(a)(1)(A)(iii)(I)(aa).

<sup>30</sup> 8 C.F.R. §204.2(c)(ix).

<sup>31</sup> INA §204(a)(1)(A)(iii)(I)(bb).

<sup>32</sup> 8 C.F.R. § 204.2(c)(2)(vi).

<sup>33</sup> *Id.*

<sup>34</sup> 8 C.F.R. §204.2(c)(2)(iv).

<sup>35</sup> INA § 204(a)(I)(iii)(II)(dd).

<sup>36</sup> *Timeline of the Muslim Ban*, ACLU WASHINGTON, (Accessed on Nov. 25, 2022) <https://www.aclu-wa.org/pages/timeline-muslim-ban>.

### III. THE MODERN LAW

#### A. VAWA's Impact

Since its enactment in 1994, from 1997 to 2011, the U.S. government processed 6,546 VAWA petitions on average per year with an approval rating of 75%.<sup>37</sup> Between 1993 (pre-VAWA) to 2008, the rate of intimate partner violence against females declined from 9.4 victimizations per 1,000 females to 4.3 per 1,000.<sup>38</sup> Additionally, the mandatory arrest laws of VAWA showed a 51% increase in reporting intimate personal violence.<sup>39</sup> The impact of VAWA went far beyond bettering statistics of domestic violence, it also influenced the passage of other legislation to help combat gender-based violence.

In the 2000 VAWA reauthorization period, Congress introduced the Victims of Trafficking and Violence Protection Act.<sup>40</sup> This T visa category protects victims of sex trafficking and/or labor trafficking and provides temporary legal status to the noncitizen.<sup>41</sup> Eligibility for a T visa requires an immigrant applicant to prove they were brought to the U.S. as a result of human trafficking and that they would “suffer extreme hardship involving unusual and severe harm” if removed from the U.S.<sup>42</sup> Victims residing legally on T Visas and their families

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<sup>37</sup> *Fact Sheet on VAWA, T Visas and U Visas*, LAW ENFORCEMENT IMMIGR. TASK FORCE, (Accessed on Nov. 25, 2022) [https://leitf.org/wp-content/uploads/2021/04/UTVAWA-Factsheet\\_CLEAN-COPY.pdf](https://leitf.org/wp-content/uploads/2021/04/UTVAWA-Factsheet_CLEAN-COPY.pdf).

<sup>38</sup> Shannon Catalano ES, Howard Synder, Rand Michael, *Female Victims of Violence Statistics*, UDOJBOJ, 2009.

<sup>39</sup> *University of Kentucky Center for Research on Violence Against Women Top Ten Things Advocates Need to Know*, RESEARCH TO PRACTICE BRIEF, 2011.

<sup>40</sup> *Fact Sheet on VAWA, T Visas and U Visas*, LAW ENFORCEMENT IMMIGR. TASK FORCE, (Accessed on Nov. 25, 2022) [https://leitf.org/wp-content/uploads/2021/04/UTVAWA-Factsheet\\_CLEAN-COPY.pdf](https://leitf.org/wp-content/uploads/2021/04/UTVAWA-Factsheet_CLEAN-COPY.pdf).

<sup>41</sup> *Id.*

<sup>42</sup> It is the applicant's responsibility to demonstrate the elements of a severe form of trafficking in persons. For example, the applicant must include a personal statement explaining in their own words describing the facts of their victimization (8 C.F.R. 214.11(d)(2)).

are also able to utilize services from the Office of Refugee Resettlement including cash and medical care, employment and academic support, and more.<sup>43</sup> Through the Unaccompanied Refugee Minors program, minors who were victim to specific T Visa crimes are able to receive shelter, health care, mental health services, legal services, and family reunification.<sup>44</sup> While there is a 5,000 cap on recipients of T Visas offered in a fiscal year, in 2019, 1,242 victim applications were filed, and 1,011 family of victim applications were submitted, thus allowing many victims the opportunity to break free from their abuser.<sup>45</sup> From 2010 to 2019, 63% of applications for T-1 Visas were approved, and 73% of the applications for derivative T Visas were approved.<sup>46</sup> The generally hardest battle in obtaining a T visa is the high threshold of showing they would suffer “extreme hardship” if removed from the United States, thus limiting its candidacy pool to very specific peoples.<sup>47</sup>

Along with the T Visa, Congress created the U visa, the Battered Immigrant Women Protection Act of 2000.<sup>48</sup> This visa seeks to grant temporary status to victims of certain crimes who “have suffered mental or physical abuse and are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity.”<sup>49</sup> Eligible to all immigrants, the

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<sup>43</sup> *Fact Sheet on VAWA, T Visas and U Visas*, LAW ENFORCEMENT IMMIGR. TASK FORCE, (Accessed on Nov. 25, 2022) [https://leitf.org/wp-content/uploads/2021/04/UTVAWA-Factsheet\\_CLEAN-COPY.pdf](https://leitf.org/wp-content/uploads/2021/04/UTVAWA-Factsheet_CLEAN-COPY.pdf).

<sup>44</sup> *Id.*

<sup>45</sup> U.S. Citizenship and Immigration Services, *Number of Form I-914, Application for T Nonimmigrant Status by Fiscal Year, Quarter, and Case Status: Fiscal Years 2008 – 2019*.

<sup>46</sup> *Id.*

<sup>47</sup> *Fact Sheet on VAWA, T Visas and U Visas*, LAW ENFORCEMENT IMMIGR. TASK FORCE, (Accessed on Nov. 25, 2022) [https://leitf.org/wp-content/uploads/2021/04/UTVAWA-Factsheet\\_CLEAN-COPY.pdf](https://leitf.org/wp-content/uploads/2021/04/UTVAWA-Factsheet_CLEAN-COPY.pdf).

<sup>48</sup> *Id.*

<sup>49</sup> *Victims of Criminal Activity: U Nonimmigrant Status*, U.S. CITIZENSHIP & IMMIGR. SERVICES, Feb. 28, 2022, (Accessed on Nov. 26, 2022) <https://www.uscis.gov/humanitarian/victims-of-human-trafficking-and-other-crimes/victims-of-criminal-activity-u-nonimmigrant-status>.

crimes specified range from female genital mutilation, prostitution, rape, murder, abduction, and domestic abuse.<sup>50</sup> Different from VAWA, an application for the U visas because of domestic violence does not require proof that the abuser be a U.S. citizen or a legal permanent resident.<sup>51</sup> Another benefit to the U visa is it seeks to protect victims of trafficking who may not qualify for T visas due to its high threshold for proving they would suffer “extreme hardship” if removed from the U.S.<sup>52</sup> The Unaccompanied Refugee Minors program is also offered for U visa holders, with an approval rate of 86%.<sup>53</sup> The downside to the U visa is the law enforcement’s discretion on whether the victim has been of help to a criminal investigation, along with a 10,000 cap on U visas issued with a severe backlog of more than 140,000 cases in 2019.<sup>54</sup> Given the backlog and popularity in its application, petitioners on a waitlist are eligible to work and are given deferred action during their wait.<sup>55</sup>

With VAWA and its additional protections, the law recognized a severe need for gender-based protection. Soon after VAWA, the immigration courts would recognize some gender claims as a form of protection under a protected social class, a legal remedy extending protection to women globally.

In *In re Kasinga*, members of the Tchamba-Kunsuntu Tribe of northern Togo practiced female genital mutilation.<sup>56</sup> This practice results in permanent disfigurement and poses a variety of risks and potentially life-threatening complications by removing partial or total genitalia for

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<sup>50</sup> INA § 101(a)(15)(U), 8 U.S.C. § 1101(a)(15)(U).

<sup>51</sup> *Fact Sheet on VAWA, T Visas and U Visas*, LAW ENFORCEMENT IMMIGR. TASK FORCE, (Accessed on Nov. 25, 2022) [https://leitf.org/wp-content/uploads/2021/04/UTVAWA-Factsheet\\_CLEAN-COPY.pdf](https://leitf.org/wp-content/uploads/2021/04/UTVAWA-Factsheet_CLEAN-COPY.pdf).

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *In re Kasinga* 21 I&N Dec. 357 (BIA 1996).

non-medical reasons.<sup>57</sup> Kasinga was a 19-year-old who was forced into a marriage at age seventeen, where her aunt and husband planned to force her to submit to female genital mutilation before the marriage.<sup>58</sup> Kasinga fled Togo and flew to Germany and eventually to the United States, where she had found out that her aunt reported her to the Togolese police.<sup>59</sup> Immediately, she requested asylum and explained that removing her back to Togo would force her into female genital mutilation and an arranged marriage.<sup>60</sup> Further, she explained she could not stay in Germany due to the language barrier, and any other country in Africa would lead to the Togolese police locating her.<sup>61</sup> Here, the court held that women who opposed this practice were recognized as one of the five protected classes, as a particular social group, under §1101(a)(42)(A). Citing the *Matter of Acosta*, a particular social group is defined by “common characteristics that members of the group cannot change.”<sup>62</sup> Therefore, being a “young woman” and a “member of the Tchamba-Kunsuntu Tribe” cannot be changed, along with the characteristic of having intact genitalia which is fundamental to the identity of a young woman.<sup>63</sup>

In the *Matter of A-R-C-G-*, the court held, “married women in Guatemala who are unable to leave their relationship” can qualify as a particular social group that forms the basis of a claim for asylum.<sup>64</sup> Married at age seventeen, a Guatemalan woman suffered abuse from her husband for years, varying in abuse such as beating her, raping her, and throwing chemicals on her.<sup>65</sup> After numerous failed escapes, her abuser promised he would never stop, A-R-C-G eventually

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<sup>57</sup> *Female Genital Mutilation*, WORLD HEALTH ORG., (Accessed on Nov. 24, 2022) [https://www.who.int/health-topics/female-genital-mutilation#tab=tab\\_1](https://www.who.int/health-topics/female-genital-mutilation#tab=tab_1).

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

fled with her three children to the United States.<sup>66</sup> Citing in *Matter of C-A*<sup>67</sup> and *Matter of A-M-E & J-G-U*,<sup>68</sup> particular social group can mean social visibility and particularity of a social group, thus showing social distinction. Since gender is an immutable characteristic, as is “marital status” when the individual cannot leave the relationship, satisfied the *Acosta* standard.<sup>69</sup> Furthermore, the group was defined as socially distinct because married women unable to leave a relationship is socially distinct within Guatemalan society.<sup>70</sup> Both *In re Kasinga* and *In re A-R-C-G* showed hope among the courts in examining each asylum claim as a case-by-case analysis in favor of women and the specific gender-based violence they experience.

## **B. The Trump Era**

Despite VAWA and its efforts, immigration law’s case-by-case analysis and political influence severely setback the progress made for refugees. President Donald Trump’s political opinion and influence changed immigration law and the way courts viewed gender-based asylum claims.

Though Trump has been blunt about anti-refugee and immigration policy agendas, his actions spoke louder than words. While VAWA and its efforts were impacting women across the globe, Trump had a different agenda for resources that aided women facing violence. He failed to appoint a director for the U.S. State Department and Office on Violence Against Women, a leadership role focused on global women’s issues, he proposed cuts or over-all eliminating funding for violence against women programs (like VAWA), and nominated Attorney General

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<sup>66</sup> *Id.*

<sup>67</sup> 23 I. & N. Dec. 951 (B.I.A. 2006).

<sup>68</sup> 24 I. & N. Dec. 69 (B.I.A. 2007).

<sup>69</sup> *Matter of A-R-C-G*, 26 I. & N. Dec. 395 (B.I.A. 2014). (392-93).

<sup>70</sup> *Id.*

Jeff Sessions, a man with a notorious troubling record of controversial opinions endangering both civil and women's rights, opposing VAWA and other women-based relief acts.<sup>71</sup> Trump's agenda to undermine female leadership and safety expanded into his administration, as he would appoint three men for every woman and carry with him a team with anti-feminist beliefs.<sup>72</sup> Vice President Mike Pence set out to break Senate ties on women-related issues such as Title X funding for Planned Parenthood and comprehensive family planning health services.<sup>73</sup>

With a strong conservative team on Trump's side able to push his agenda, on January 17, 2017, he signed an executive order that banned noncitizens from mostly Muslim countries known as the, "Muslim Ban."<sup>74</sup> These countries include Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen, and suspended the resettlement of Syrian refugees.<sup>75</sup> Trump's ultimate reasoning for the ban was screening and national security concerns, stating, "I am committed to our ongoing efforts to engage those countries willing to cooperate, improve information-sharing and identity management protocols and procedures, and address both terrorism-related and public safety risks."<sup>76</sup>

The narrative that refugees and migrants from specific countries are dangerous and post national security threats influenced courts in the U.S., specifically, immigration courts and how

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<sup>71</sup> Sunny Frothingham & Shilpa Phadke, *100 Days, 100 Ways the Trump Administration Is Harming Women and Families*, AM. PROGRESS, April 25, 2017, (Accessed on Nov. 26, 2022) <https://www.americanprogress.org/article/100-days-100-ways-trump-administration-harming-women-families/>.

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Timeline of the Muslim Ban*, ACLU WASHINGTON, (Accessed on Nov. 25, 2022) <https://www.aclu-wa.org/pages/timeline-muslim-ban>.

<sup>75</sup> *Muslim Travel Ban*, IMMIGR. HISTORY, (Accessed on Nov. 25, 2022) <https://immigrationhistory.org/item/muslim-travel-ban/>.

<sup>76</sup> *Id.*

they respond to all refugees. On June 26, 2018, the Supreme Court passed the executive order, in a 5-4 opinion, and even expanded on that list of countries banned including Venezuela and North Korea.<sup>77</sup> Eventually, Trump would add more countries to the ban: Eritrea, Kyrgyzstan, Myanmar, Nigeria, Sudan, and Tanzania.<sup>78</sup> During the fiscal year of 2020, asylum grant rates decreased to 29%.<sup>79</sup>

Administratively within the immigration courts, while the issuance of U visas were at their highest acceptance rate in 2014 with an average of 86%, the backlog for this protection grew tremendously which led to a 13% decrease in the number of new petitions by 2018.<sup>80</sup> When women's rights could not seem more at risk, two major cases that aided the global protection of refugees fleeing their homeland from gender-based crimes like domestic violence and rape were overturned.

In 2018, *Matter of A-R-C-G-* was overruled in the *Matter of A-B-*.<sup>81</sup> The Attorney General held the decision was wrongly decided and should not have been set as precedent.<sup>82</sup> Now, an applicant seeking to establish persecution based on violent conduct by a private actor must show more than the government's difficulty controlling that behavior; rather, the applicant must show

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<sup>77</sup> *Timeline of the Muslim Ban*, ACLU WASHINGTON, (Accessed on Nov. 25, 2022) <https://www.aclu-wa.org/pages/timeline-muslim-ban>.

<sup>78</sup> *Muslim Travel Ban*, IMMIGR. HISTORY, (Accessed on Nov. 25, 2022) <https://immigrationhistory.org/item/muslim-travel-ban/>.

<sup>79</sup> *The Impact of Nationality, Language, Gender and Age on Asylum Success*, TRAC IMMIGR., Dec. 7, 2021, (Accessed Nov. 24, 2022) <https://trac.syr.edu/immigration/reports/668/>.

<sup>80</sup> *Fact Sheet on VAWA, T Visas and U Visas*, LAW ENFORCEMENT IMMIGR. TASK FORCE, (Accessed on Nov. 25, 2022) [https://leitf.org/wp-content/uploads/2021/04/UTVAWA-Factsheet\\_CLEAN-COPY.pdf](https://leitf.org/wp-content/uploads/2021/04/UTVAWA-Factsheet_CLEAN-COPY.pdf).

<sup>81</sup> *Matter of A-R-C-G-*, 26 I&N Dec. 338 (BIA 2014).

<sup>82</sup> *Id.*



the government condoned the private actions or demonstrated an inability to protect the victims.<sup>83</sup>

Later, *Matter of A-B-* was vacated in its entirety by the Attorney General in 2021.<sup>84</sup> It cited that immigration judges and the Board should no longer follow *A-B-I* or *A-B-*, instead, pending forthcoming rulemaking, they should follow pre-*A-B-I* precedent.<sup>85</sup> This meant that claims involving domestic or gang violence perpetrated by non-governmental actors will not qualify noncitizens for asylum.<sup>86</sup> This is due to the fact that broad language could potentially create the presumption against asylum claims based on private conduct, therefore, it threatens confusion amongst the courts and discourages the case-by-case analysis of asylum claims.<sup>87</sup>

In November of 2020, Trump lost the presidential election to President Joseph Biden, where he took office officially on January 20, 2021.<sup>88</sup> Since Trump's presidency, the U.S. has seen a temporary pause in discriminatory policies directed at in refugees and/or women's rights when President Biden signed VAWA Reauthorization Act of 2022.<sup>89</sup> This expanded the reauthorization of VAWA until 2027, with it expanding services and support for marginalized communities including LGBTQ+ survivors of domestic violence, sexual assault, and funding, improving prevention to sexual violence, including support for the Rape and Education Program and Sexual Assault Services Program, the enhancement for the Fairness Rape Kit Backlog

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<sup>83</sup> *Id.*

<sup>84</sup> *Matter of A-R-C-G-*, 28 I&N Dec. 307 (A.G. 2021)

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> U.S. Embassy San Jose, *Joe Biden Sworn in as 46<sup>th</sup> President*, U.S. EMBASSY SAN JOSE, Jan. 22, 2021, (Accessed on Nov. 25, 2022) <https://cr.usembassy.gov/joe-biden-sworn-in-as-46th-u-s-president/>.

<sup>89</sup> *Fact Sheet: Reauthorization of the Violence Against Women (VAWA)*, WHITE HOUSE, March 16, 2022, (Accessed on Nov. 24, 2022) <https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/16/fact-sheet-reauthorization-of-the-violence-against-women-act-vawa/>.

Survivors Act, and more.<sup>90</sup> In all, the Biden-Harris Administration funded domestic violence and sexual assault services in the amount of \$1 billion, signed the Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act of 2021 into law empowering victims to have a choice in pursuing the court system for their attacks, and increased resources for survivors of gender-based violence by passing the Amendments to the Victims of Crime Act (VOCA).<sup>91</sup>

Women's rights were not the only focus President Biden had in store early in his presidency, but the right to asylum also tremendously improved. Since Trump's low asylum grant rate of 29%, asylum seekers success in the fiscal year of 2021 increased to 49%.<sup>92</sup> On January 20, 2021, the same day he was elected into office, President Biden signed a Presidential Proclamation, "Ending Discriminatory Bans on Entry to the United States."<sup>93</sup> This ended the Muslim Ban Trump had placed on numerous countries and reinstalled hope for refugees fleeing to the U.S.

#### **IV. THE GLOBAL ECONOMY**

##### **A. The Impact on Refugee Women Being Discriminated and Disadvantaged**

###### **a. The Consequences of Denying Asylum**

Coming to America as a migrant or asylum seeker is not easy. Both the complexity and cost of the United States' legal proceedings alongside women's personal attempts of escaping a country poses challenges that make the immigration process seem impossible. To enter the U.S.

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<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

<sup>93</sup> *Presidential Proclamation 9645 and Presidential Proclamation 9983*, U.S. DEPT. OF STATE, <https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/presidential-proclamation-archive/presidential-proclamation9645.html>.

under a valid visa is often time consuming, costly, and has strict qualifications that must be met to be eligible for certain visas. On average, visa fees range from \$160 to \$930 per application<sup>94</sup> and can take several years to obtain.<sup>95</sup> In fact, during the Trump era, the U.S. had a high denial rate and had extraordinary delays due to the Covid-19 pandemic, still causing a backlog of visa applications and more rejections of visas.<sup>96</sup> Thus, entering illegally to escape crisis is the only spec of hope many migrants find feasible, though it is far from an easy decision to take on such venture. Applied here, women in danger of violence and crime do not have opportunity to wait around for a valid U.S. visa, therefore, many women risk their lives for the chance of finding freedom and peace.

Reported by the Department of Homeland Security in September of 2022, nearly 750 migrants have died or gone missing during their attempt to cross at the border.<sup>97</sup> As for women, they are three times more likely to die than men when crossing the border.<sup>98</sup> A common misconception about migrants entering illegally is that they are too lazy to pursue a visa, or they want to leach off American benefits; however, the urgency for these migrants to enter our country is not a matter of finding new career opportunities or experiencing the American dream, but the reality for many is life or death. Moreover, the legal system's reluctance in denying

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<sup>94</sup> U.S. Department of State, *Fees for Visa Services*, (Accessed on Dec. 17, 2022).

<sup>95</sup> *Why Immigration Visa Wait Times Are So Long*, CITIZEN PATH, Feb. 2, 2021 (Accessed on Dec. 18, 2022) [visa-wait-times/](https://citizenpath.org/visa-wait-times/).

<sup>96</sup> *Id.*

<sup>97</sup> Nick Reimann, *Record Number of Migrants Died at Southern Border Over Past Year, Report Says*, FORBES, Sept. 7, 2022 (Accessed on Dec. 17, 2022) <https://www.forbes.com/sites/nicholasreimann/2022/09/07/record-number-of-migrants-died-at-southern-border-over-past-year-report-says/?sh=65b66dfc2c13>.

<sup>98</sup> *The Gendered Impact of US Border Militarization*, TUFTS, Nov. 9, 2020 (Accessed on Dec. 19, 2022) <https://sites.tufts.edu/gender/the-gendered-impact-of-us-border-militarization/#:~:text=When%20crossing%20the%20US%20Mexico,die%20of%20exposure%20than%20men>.

women the right to asylum based on gender-based violence and crime forces scared and naive women into venturing to the U.S. illegally for the smallest chance of a hopeful future. For women facing the violence back home, this dangerous attempt to crossing the border is worth fleeing the horrors of their homeland. That being said, women face even more challenges on average than men crossing the border due to gender-based violence.<sup>99</sup>

According to the United Nations High Commissioner for Refugees, women at the border face high risks of rape and human trafficking which leads to traumatization of the victims, unwanted pregnancies and/or unsafe abortions, and even death.<sup>100</sup> For women traveling with children, there is great risk for families to separate and may take years to reconnect. In 2018, around 2,654 children were separated from their mothers, and these numbers continuously worsened throughout Trump's presidency.<sup>101</sup> When these women risk it all to obtain safety and when her brave efforts result in being a victim to more crime and violence or failed efforts at escaping, it sends a message worldwide that the U.S. is denying a person of her dignity and sentencing her back to a life of fear. This has impacts on both an individual and global level: economically, in global health, and morally.

### **b. The Value of Accepting Battered Women into the U.S.**

Gender-based violence as a whole hurts human development and the global economy in many ways. Women are key to a good economy, as women boost work productivity, increases

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<sup>99</sup> *Id.*

<sup>100</sup> Nick Reimann, *Record Number of Migrants Died at Southern Border Over Past Year, Report Says*, FORBES, Sept. 7, 2022 (Accessed on Dec. 17, 2022) <https://www.forbes.com/sites/nicholasreimann/2022/09/07/record-number-of-migrants-died-at-southern-border-over-past-year-report-says/?sh=65b66dfc2c13>.

<sup>101</sup> *Family Separation*, ACLU, Oct. 2, 2018 (Accessed on Dec. 18, 2018) <https://www.aclu.org/issues/family-separation>.

diversification and promotes income equality, boosts the average gross domestic product (GDP) in some countries by \$3 trillion<sup>102</sup> with an estimate of the GDP growing to \$28 trillion by 2025.<sup>103</sup> Women also contribute to the world's daily life needs and demands, as nearly one third of women's employment in the world is in agriculture<sup>104</sup> and women make up half of the 258 migrants who work around the world outside their homelands.<sup>105</sup> Women undeniably account for economic value in the workplace and are strongly relied upon when it comes to global sustainability. Yet, women are still fighting a battle in owning land in their countries, facing disproportionate impacts from environmental degradation and climate change, are less likely to be entrepreneurs or obtain leadership roles, and of course, experience disproportionate salaries compared to men.<sup>106</sup> Understanding the value of women in the workplace, the U.S. offers many avenues and solutions for women who may not have an education to venture into a career or money to survive. This is especially meaningful for women who are escaping countries where their right to work as females may be barred or where they experience significant pay reductions due to their gender.<sup>107</sup> Due to the background of these battered women, the U.S. offers asylum relief programs that help assist in legal assistance, assistance in family reunions, guidance on

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<sup>102</sup> *Facts and Figures: Benefits of Economic Empowerment*, UN WOMEN, July 2018 (Accessed on Dec. 18, 2022) <https://www.unwomen.org/en/what-we-do/economic-empowerment/facts-and-figures>.

<sup>103</sup> *This is Why Women Must Play a Greater Role in the Global Economy*, WORLD ECONOMIC FORUM, Jan. 24, 2018 (Accessed on Dec. 18, 2022) <https://www.weforum.org/agenda/2018/01/this-is-why-women-must-play-a-greater-role-in-the-global-economy/>.

<sup>104</sup> *Facts and Figures: Benefits of Economic Empowerment*, UN WOMEN, July 2018 (Accessed on Dec. 18, 2022) <https://www.unwomen.org/en/what-we-do/economic-empowerment/facts-and-figures>.

<sup>105</sup> *Women Refugees and Migrants*, UN WOMEN, (Accessed on Dec. 18, 2022) <https://www.unwomen.org/en/news/in-focus/women-refugees-and-migrants>.

<sup>106</sup> *Facts and Figures: Benefits of Economic Empowerment*, UN WOMEN, July 2018 (Accessed on Dec. 18, 2022) <https://www.unwomen.org/en/what-we-do/economic-empowerment/facts-and-figures>.

<sup>107</sup> *Id.*

seeking job and school opportunities, and temporary housing.<sup>108</sup> For many women, the U.S. is an opportunity to flee from their perpetrators and make their own life for themselves, encompassed with safety, economic freedom, and dignity.

While the U.S. offers more opportunity than most countries, the U.S. is still flawed and has tremendous work to do regarding its own issues with gender discrimination. This applies to women migrants too, as male migrants' acceptance rates to seeking asylum have improved from 50.6 percent to 51.9 percent, whereas women's acceptance rates have declined from 49.6 percent to 48.1 percent.<sup>109</sup> Since males have historically been the target of providing aid to seeking asylum in our history, they still have more opportunity than women to enter the U.S. successfully and legally on the mere basis of sex. This type of gender discrimination extends much further than seeing statistics on paper, as it affects the individual livelihoods of women worldwide. For example, women who encounter the effects of gender discrimination like the migrant acceptance rates are more likely to experience psychological trauma such as higher levels of stress, anxiety, depression, and post-traumatic stress disorder (PTSD).<sup>110</sup> Especially for women who are already experiencing gender-based violence, depression and anxiety are two to four percent more prevalent in women who have experience female genital mutilation, partner violence, and abuse than the general population. As the U.S. denies entry for women, they are stuck living traumatic lives and suffering with mental illness with little access to healthcare or no treatment.<sup>111</sup> When

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<sup>108</sup> *UNHCR Help*, UN REFUGEE AGENCY (Accessed on Dec. 19, 2022) <https://help.unhcr.org/usa/>.

<sup>109</sup> *Gender and Migration*, MIGRATION DATA PORTAL, Sept. 28, 2021 (Accessed on Dec. 18, 2022) <https://www.migrationdataportal.org/themes/gender-and-migration>.

<sup>110</sup> Jayne Leonard, *What Are the Psychological Effects of Gender Inequality?* MED. NEWS TODAY, June 30, 2021 (Accessed on Dec. 17, 2022) <https://www.medicalnewstoday.com/articles/psychological-effects-of-gender-inequality>.

<sup>111</sup> *Id.*

women are mentally ill and placed in violent homes, they cannot contribute to their families, their communities, nor to the global economy. Additionally, women who are forced back to violent homes are unlikely to seek the opportunity in receiving an education or advancing in a career. This inequality in access to education for women in violent homes adversely impacts their ability to develop human and social capital and diminishes the opportunity to earn a wage or earn a livelihood to escape their perpetrators.<sup>112</sup>

As seen above, increasing women's opportunity to education and a career means a better economy in terms of growth and equality. Women who are denied asylum and who are forced back into a life where they cannot contribute to the economy and to their own livelihood because of their living conditions results in taking steps backwards in closing the gender gap, stunts the global economy, and ignores the need for basic human rights.<sup>113</sup> When women have a fair and equal opportunity without the gender-based hardships, there is evident improvement in both the world and in individual lives. When women are successful or even given the opportunity to succeed, it gives women access to work, control over their time, life, and body, empowerment and a voice in society, and the opportunity to provide for their families and for themselves.<sup>114</sup> Women around the world have the potential to be strong influences in the world, changing the law for social justice, bettering the economy, and improving the morality in the world, but there are many women struggling with gender-based crimes who will never embody such opportunity

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<sup>112</sup> Kim Jinyoung, Lee Jong-Wha, & Shin Kwanho, A MODEL OF GENDER INEQUALITY AND ECONOMIC GROWTH (2016).

<sup>113</sup> *Facts and Figures: Benefits of Economic Empowerment*, UN WOMEN, July 2018 (Accessed on Dec. 18, 2022) <https://www.unwomen.org/en/what-we-do/economic-empowerment/facts-and-figures>.

<sup>114</sup> *Id.*

if the U.S. and other countries deny women of asylum rights. The U.S. is a unique answer to allowing women the chance they deserve, yet they are still fighting for their voices to be heard.

## **B. Solutions to Aid Women Fighting for Freedom**

### **a. Legal Approach**

The immigration courts have shown, historically, inconsistent results because of its case-by-case approach. With the recent decision from *Matter of A-B-*, INS guidelines seek to establish a difference between public and private acts, whereas public acts are a claim for asylum and the latter not.<sup>115</sup> The five protected classes to seeking asylum are in response, normally, to the government, where women normally are victims to private acts like rape, sexual assault, and domestic violence.<sup>116</sup> In these instances, women seek asylum in two ways: (1) if the government is unable or unwilling to control the act; or (2) the act is attributed to the government.<sup>117</sup> This severely limits many cases heard on violence against women and removes the opportunity for these victims to flee for safety. The court has made the burden even harder in some instances, as seen in *Klawitter v. INS*, where a woman was raped by Polish police after refusing to join the Communist Party, claiming she had been blacklisted for her political beliefs.<sup>118</sup> She was denied asylum by the Attorney General, who stated the motive behind the policeman was personal, not political.<sup>119</sup> The history of courts who continued this routine of denying women asylum in these

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<sup>115</sup> INS Guidelines on Public v. Private

<sup>116</sup> Lucy Akinyi Orinda, *Securing Gender-Based Persecution Claims: A Proposed Amendment to Asylum Law*, 17 Wm. & Mary J. Women & L. 665 (2011) (Accessed on Nov. 23, 2022) <http://scholarship.law.wm.edu/wmjowl/vol17/iss3/7>.

<sup>117</sup> *Id.*

<sup>118</sup> *Klawitter v. INS*, 970 F.2d 149, (6th Cir. 1992).

<sup>119</sup> *Id.*



scenarios persisted in *Vardhami v. Gonzales*<sup>120</sup> and *Marku v. Aschroft*.<sup>121</sup> The public and private distinction is archaic and outdated, as many forms of persecution were designed and focused on men who faced civil and political harms during World War II<sup>122</sup> and Vietnam War<sup>123</sup>. Now, our current global issue runs much further than just governmental persecutors, which warrants the question as to why would it help women now. Private acts are not seen as persecution, and crime such as rape, assault, and violence are swept under the rug merely because of the person committing these acts. This is significantly impacting women seeking to leave from situations of systemic gender-based violence and thus needs to be reconsidered, for failure to do so leads to immigration judges interpreting means of persecution to their own discretion based on their own beliefs and experiences.

The consistency is lacking, and the discretion left to the courts is weighed more in political belief than precedent law. Since *Acosta*, which broadened the definition of particular social group to extend the protection to members who share common immutable characteristics that they cannot or should not have to change, *Matter of M-E-V-G-* added two more requirements to qualify as a protected social group, requiring groups to be “socially distinct within society in question”, and “defined with particularity.”<sup>124</sup> In the case of *De Pena Paniagua v. Barr*, these two additions harmed the opportunity for women in qualifying for asylum. The Attorney General

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<sup>120</sup> *Vardhami v. Gonzales*, 130 F. App'x 740 (6th Cir. 2005).

<sup>121</sup> *Marku v. Ashcroft*, 380 F.3d 982 (6th Cir. 2004).

<sup>122</sup> *History*, U.S. DEPT. OF HEALTH & HUMAN SERVICES, November 12, 2021, (Accessed on Nov. 26, 2022) <https://www.acf.hhs.gov/orr/about/history>.

<sup>123</sup> *Id.*

<sup>124</sup> *Matter of M-E-V-G-* 26 I&N Dec. 227 (BIA 2014).

elaborated that the categories precedent has implied such as, “women in a domestic relationship,” “women in country X” are too large or distinct of a group.<sup>125</sup>

The issue is, these categories are not broad. For example, it does not seek protection for all women in country X, but rather, women in country X who have been abused and victims of crime. The narrowing distinction does not come from the protected social class, but the asylum seekers’ ability to show the causal connection of the harmful act to a protected ground, the fear of persecution, and the severity of the harm being threatened or already carried forth.<sup>126</sup> These classifications do not apply to everyone but help those who asylum laws seek to protect. Given the confusion of trying to narrow a definition of social class, women have been victim to its change. Going back to the *Acosta* standard is arguably the best solution in making sure women are protected against gender-based violence. In February of 2021, President Biden proposed an Executive Order to combat sexual, gender-based, and domestic violence.<sup>127</sup> This order would allow the Attorney General to evaluate if it is consistent with international standards for the U.S. to protect refugees fleeing from domestic violence or gang violence, along with clarification on the regulations in “circumstances which a person should be considered a member of a particular social group.”<sup>128</sup> All branches of government impact the law on asylum and refugee rights, therefore, it is important to elect officials who will speak up for basic human rights.

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<sup>125</sup> *De Pena-Paniagua v. Barr*, 957 F.3d 88 (1st Cir. 2020).

<sup>126</sup> *Guidelines on International Protection*, UN REFUGEE AGENCY, at 2, May 7, 2002, (Accessed on Nov. 26, 2022) <https://www.unhcr.org/3d58de2da.pdf>.

<sup>127</sup> *Id.*

<sup>128</sup> Sabrineh Ardalan & Deborah Anker, *Re-Setting Gender-Based Asylum Law*, HARVARD LAW REVIEW, Dec. 30, 2021, (Accessed on Nov. 26, 2022) <https://blog.harvardlawreview.org/re-setting-gender-based-asylum-law/>.

## **b. Economic Approach**

Many misconceptions about refugee rights come with the idea that illegal immigrants take away jobs from legal citizens and that Americans' taxes are paying to protect refugees. The narrow mindset that Americans should not spend money to help noncitizens is corrupt, and the truth behind the economic impact of refugees is illogical and misguided. The concept that refugees steal jobs is quite opposite to reality, where the U.S. State Department identified that refugees fill the gaps in the market.<sup>129</sup> In January of 2022, there were nearly 11.3 million job opportunities<sup>130</sup> with only 25,465 refugees entering the U.S. in the same year.<sup>131</sup>

In a 2017 U.S. government study, refugees contributed to a \$63 billion positive economic tax contribution, where the government spent roughly \$206 billion on refugees and in return, refugees contributed to more than \$269 billion in tax revenue to federal, state, and local entities.<sup>132</sup> In addition to the tax revenue generated, refugees have technical skills and entrepreneurial spirit, leading to unique knowledge and skill in culinary arts, labor forces, and trade.<sup>133</sup> Over-all, refugees like American citizens pay taxes which help stimulate the economy, they enrich the market by providing cultural diversity, and help the job market and local

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<sup>129</sup> Anna Maria Mayda, *The Labor Market Impact of Refugees: Evidence from the U.S. Resettlement Program*, DEPT. OF STATE, Aug. 2017, (Accessed on Nov. 25, 2022) <https://www.state.gov/wp-content/uploads/2018/12/The-Labor-Market-Impact-on-Refugees-Evidence-form-the-U.S.-Resettlement-Program-1.pdf>.

<sup>130</sup> *What are the Economic Benefits of Refugees and How Do They Grow the Economy?* LIRS, March 24, 2022, (Accessed on Nov. 24, 2022) <https://www.lirs.org/economic-benefits-refugees/>.

<sup>131</sup> Reva Dhingra, *Why Refugee Resettlement is a Crucial Part of US Migration Strategy*, BROOKINGS, Oct. 7, 2022, (Accessed on Nov. 24, 2022) <https://www.brookings.edu/blog/order-from-chaos/2022/10/07/why-refugee-resettlement-is-a-crucial-part-of-us-migration-strategy/>.

<sup>132</sup> *What are the Economic Benefits of Refugees and How Do They Grow the Economy?* LIRS, March 24, 2022, (Accessed on Nov. 24, 2022) <https://www.lirs.org/economic-benefits-refugees/>.

<sup>133</sup> *Id.*

productivity by new enterprises that generates \$100 million each year (benefiting both the U.S. and host country economy).<sup>134</sup> The economic effect from refugees raising productivity, boosting innovation, improving wage benefits and labor laws, and the positive effect of international trade and on the global economy are all significant reasons as to why refugees are needed in the U.S.<sup>135</sup>

### **c. Societal Approach**

As a society, it is important to recognize the harsh realities of the cruelty that happens in our world. The U.S. in many ways is privileged to have the safety and power to protect its citizens from crime, and as one of the world's greatest powers, it has an unspoken duty to help others. With the political climate of refugee protection and women's right at risk, society must understand the difference between gender equality and gender equity.

In a perfect world, gender equality in immigration law means all genders have the same, equal chance and must prove the same elements to be granted asylum and immigration relief; however, that disregards the issues women face and the historical discrimination they have overcome. Women face different issues than men on a greater scale, especially women who live in countries with strong machismo/patriarchal values, women who culturally have been suppressed, and women who are stuck in homes and routines of physical, mental, and sexual violence. The harsh truth is that women are more likely to be victims of certain crimes than men, where they are 7-14% more likely to report severe violence by their partner, that they are nearly six times as likely to be victims of rape or attempted rape, that nine out of ten rape victims are female, that women are 3.5 times more likely to be stalked, and that nearly one in every three

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<sup>134</sup> *Id.*

<sup>135</sup> *Id.*

women has been beaten or coerced into sex or abused in their life.<sup>136</sup> Gender equity recognizes these disadvantages, and the discrimination and hardships women face daily. Changing the narrative of feminism and refugee rights will allow for recognition of such hardships from women and refugees on a human moral perspective, not a political one. Though it takes the reworking of how a country thinks, it is this education and awareness that is required to even begin this change and starts here to slowly change the mindset of generations to come.

## **V. CONCLUSION**

The U.S. and the world have a long way to go in ensuring the safety and equality for women seeking asylum, and gender rights in general; however, efforts like VAWA have paved us a path. In a time in history where women are being oppressed merely on the basis of sex, it gives incentive to those with power, with a voice, and with determination to help break the status quo and fight for change. Asylum and gender equality are basic human rights, and it is time our society and legal system treat it as such.

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<sup>136</sup> *Frequently Asked Questions about VAWA and Gender*, NAT'L TASK FORCE TO END SEXUAL & DOMESTIC VIOLENCE AGAINST WOMEN, (Accessed on Nov. 24, 2022) [http://www.ncdsv.org/images/FAQ\\_VAWA%20and%20Gender.pdf](http://www.ncdsv.org/images/FAQ_VAWA%20and%20Gender.pdf).

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