



NEWS RELEASE

Contact: Media Services
Office of Public Affairs
(202) 514-2648 Fax: (202) 514-1776

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Proposed Rule Issued for Gender-Based Asylum Claims

WASHINGTON – The Attorney General and the Commissioner of the Immigration and Naturalization Service (INS) today announced the publication of regulations that establish a broad analytical framework for the consideration of asylum claims based on membership in a particular social group. The proposed rule, published today in the *Federal Register*, also recognizes that victims of domestic violence may, under certain circumstances, qualify for asylum under the Immigration and Nationality Act (INA).

Under the INA, a person can be granted asylum only if he or she establishes a well-founded fear of persecution on account of one of five protected grounds: race, religion, nationality, membership in a particular social group, or political opinion. The proposed rule recognizes the longstanding principle that gender can be the basis for membership in a particular social group. It can, on this basis, include victims of domestic violence who can not obtain protection from their own government. Asylum law in the United Kingdom, Australia, New Zealand and Canada all recognize that domestic violence can form the basis for asylum.

In the 1999 decision *Matter of R-A-*, the Board of Immigration Appeals denied asylum to a Guatemalan woman who had been brutalized by her husband over a long period of time. The case, which has been stayed in the Ninth Circuit, is under review by the Attorney General. INS and the Attorney General believe that further guidance is needed regarding the treatment of gender-based asylum claims and have chosen to issue regulations as guidance, rather than leaving this area of asylum law to be developed more incrementally on a case-by-case basis. The proposed regulation is intended to address and modify some aspects of the *Matter of R-A-* decision as well as broader issues presented by social group claims.

The proposed rule will have a 45-day notice and comment period to allow members of the public, advocacy groups and others to comment on the proposed rule. The Attorney General welcomes comment on all aspects of the proposed regulation and will review and consider all comments prior to publishing a final rule.