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STUDIES

*Protecting Refugees • Advancing Human Rights*

**Final Report Submitted to the Barbara McDowell and Gerald S. Hartman Foundation**

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**Overview**

With the generous support from The Barbara McDowell and Gerald S. Hartman Foundation, the Center for Gender & Refugee Studies (CGRS) is changing the fate of refugee women currently detained at the Eloy immigration detention center in Arizona. Going on two decades, CGRS has pioneered the expansion of U.S. asylum law to extend to the protection of women fleeing domestic violence from home countries where their governments were unwilling or unable to protect them from their abuser. Despite these advances, the immigration court tasked with hearing the cases of the approximately 500 women detained at Eloy has ignored precedent and, with few exceptions, consistently denied the claims of female asylum seekers with domestic violence and other gender-based claims. But this pattern of denials is about to end.

After months of preparation and additional months of delays caused by a measles outbreak at the detention center, CGRS is gearing up for trial in *Matter of S-O-* (previously referred to in our Six Month Report as *Matter of A-*). To be tried by CGRS Founder and Director Professor Karen Musalo and CGRS Co-Legal Director Blaine Bookey, this trial will be unlike anything the Eloy immigration court has heard or seen. With some of the country's most significant asylum law victories under their belts, these two experienced litigators' thorough and strategic presentation of this individual case in one of the nation's most hostile immigration courts will make a meaningful difference for detained women who seek protection from domestic violence.

**Case Status**

As explained in our Sixth Month Report, CGRS has strategically partnered with the Bacon Immigration Law and Policy Program at the University of Arizona and a local Arizona-based non-profit, the Florence Immigrant & Refugee Rights Project, to orchestrate a complete cultural shift at the Eloy court through strengthening and empowering the local pro bono bar, as well as intervening as counsel in a case to educate the court and influence its treatment of domestic-violence-based asylum claims. Co-counseling with the Florence Project, CGRS is representing Ms. S-O-, a young indigenous Guatemalan woman who suffered severe domestic violence at the hands of her partner, the father of her son. He beat her, raped her, and threatened her with death. She experienced head trauma and other injuries. She fled to the United States out of fear he intended to kill her. She has spent nearly twelve months in detention at Eloy.

CGRS's Blaine Bookey and paralegal and program coordinator Claire Clayton have traveled to Eloy several times to meet with Ms. S-O-, interview her, and prepare her for trial. Unfortunately, the Eloy court suspended all trials for multiple weeks due to a measles outbreak within the detention center. During this time, CGRS and the Florence Project could not meet with Ms. S-O- or make any court appearances on her behalf to move the scheduling of her trial forward. The court finally reopened in July. We are scheduled for a status conference on September 7, 2016 and expect the case to go to trial shortly thereafter.

CGRS has used Ms. S-O-'s case as an opportunity to develop important expert declarations tailored to the facts of her case, but also to simultaneously create versions that will serve as "global" declarations useful in other cases involving domestic violence in Guatemala. These witnesses include Linda B. Green, Ph.D., an Associate Professor of Anthropology. She is an expert on indigenous Guatemalan women, including the lack of state protection or internal relocation options for women suffering violence. Another expert, Claudia Paz y Paz Baily, is the former Attorney General of Guatemala, whose declaration discusses violence against women in Guatemala in its historical context and longstanding impunity for the violence. Finally, Guatemalan women's rights attorney Elisa Portillo Najera's declaration focuses on how the Guatemalan legal system has failed women, and discusses the barriers at each step of the judicial process for women seeking protection from domestic violence.

At trial, Ms. S-O- will testify, as well as Dr. Green, whose location in Arizona makes it possible for her to appear in person. Dr. Laura Brookham, PsyD, who performed a psychological evaluation of Ms. S-O- in April, will also testify. She will explain Ms. S-O-'s mental suffering and trauma as a result of her persecution in Guatemala, as well as testify to her current diagnosis of Post-Traumatic Stress Disorder. CGRS has been at the forefront of using medical health experts to explain how mental health symptoms can affect an asylum seeker's recall, emotional affect during trial, and other symptoms that may have bearing on how the judge perceives her credibility. This part of the trial alone will significantly educate the assigned immigration judge, new to the bench, and likely have lasting influence on his credibility determinations in asylum cases.

CGRS is already circulating to attorneys copies of Dr. Green's "global" declaration for use at Eloy and in other courts around the country, and the others will be finalized soon. Also, while in Arizona, Blaine Bookey and Claire Clayton led two trainings, one in Phoenix and one in Tucson, on Advanced Topics in Asylum Law: Claims Arising from Gender- and Gang-Based Claims. Already members of the pro bono legal community in Arizona, who have followed up to request individualized mentoring, are benefitting from CGRS's involvement in *Matter of S-O-*.

## **Conclusion**

Recent developments have greatly increased the need for our intervention in hostile immigration court jurisdictions such as Eloy. First, Central American women and children are literally running for their lives. The U.S. Customs and Border Patrol reports the sharpest rise in Central American women and children seeking refuge at the U.S.-Mexico border since the summer of 2014, most fleeing domestic, sexual, and other gender-based violence in their home countries. Second, the U.S. government insists on treating women (and children) fleeing violence as criminals rather than refugees. Locked in a jail-like facility, far from most legal service providers, the women refugees at Eloy and elsewhere need advocates who can stand up against aggressive government prosecutors and hostile judges.

Unfortunately, Ms. S-O-'s facts are not unique and reflect a common experience of many of the women detained at Eloy. The Eloy immigration judges deport many women like Ms. S-O- back to their fate through unjust and narrow application of the law. But in a positive development, we are now armed with the 2014 landmark victory in *Matter of A-R-C-G*—the first binding decision from the Board of Immigration Appeals, the nation's highest immigration tribunal, affirming asylum based on domestic violence. This means we finally have an opening to secure protection for the many women whose cases have failed before the Eloy court and other hostile courts, making CGRS's intervention critical to safeguard the progress we have achieved and push for an expansive application to *A-R-C-G*. By presenting a well-developed case and arguing persuasively why and how Ms. S-O- (and so many other women) qualify for relief under a fair application of the law to the facts, we are confident we will prevail in turning the tides at Eloy.