

*Theorizing Violence Against Men as Gender-Related Persecution
Under U.S. Asylum Law*

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This paper seeks to broaden feminist theories of gender-related persecution in asylum law to recognize, and theorize, gendered violence against men and boys. It analyzes the failure of human rights scholars and courts to recognize violence against male refugees as gender-related persecution under asylum law. This paper builds upon my recent article, *Sexual Violence Against Men and Women in War: A Masculinities Approach*. In that article, I argued that feminist scholars and activists should broaden their understanding of sexual violence during conflict to incorporate rape and sexual violence of men and boys. This new article analyzes the invisibility of men and boys as victims of gender persecution under asylum law.

The U.S. Immigration and Naturalization Act permits claims of asylum for persecution on several enumerated grounds that do not include gender. As a result, feminist scholars and human rights activists have criticized the law for ignoring the experiences of women, who also suffer persecution but sometimes in different ways than men. They have mobilized to try to persuade U.S. courts to recognize gendered violence against women, such as sexual violence or domestic violence, as a form of persecution against a “particular social group” that qualifies for asylum protection. Yet in doing so, these scholars have tended to essentialize gender violence as sex-specific, *i.e.* defining gender persecution as a sex-specific harm, perpetrated against women by men. Courts and scholars have recognized asylum claims of gay men who are persecuted because of their sexual orientation or gender identity. However, most have tended to focus on women and girls as

the victims of gender-based persecution and have not recognized – or theorized -- other forms of violence or persecution of men that could be conceptualized as gender-based. For example, U.S. courts have been reluctant to recognize claims for asylum by young men who refuse to join gangs in Guatemala or El Salvador, not recognizing the gendered nature of the persecution.

The article will seek to broaden the legal and theoretical framework of asylum law to recognize the gendered nature of particular types of violence and persecution directed at men and boys. It will analyze the relevant laws (national and international) and the interpretive guidelines, and relevant judicial opinions concerning claims of asylum raised by men and boys. Drawing on insights from masculinities theory, I will demonstrate how feminists and human rights advocates could conceptualize claims of male refugees as gender-based persecution. I anticipate analyzing judicial opinions denying asylum to men who have refused to join gangs, been forcibly recruited as child soldiers, experienced sexual violence in detention and/or conflict, and been targeted for honor killings because of their actual or perceived violation of sexual and gender norms.