UNIVERSITY OF PITTSBURGH LAW REVIEW
Vol. 77 ● Fall 2015

DEFINING MEMBERSHIP IN A PARTICULAR SOCIAL GROUP: THE SEARCH FOR A UNIFORM APPROACH TO ADJUDICATING ASYLUM APPLICATIONS IN THE UNITED STATES

Kenneth Ludlum

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

DEFINING MEMBERSHIP IN A PARTICULAR SOCIAL GROUP: THE SEARCH FOR A UNIFORM APPROACH TO ADJUDICATING ASYLUM APPLICATIONS IN THE UNITED STATES

Kenneth Ludlum*

I. INTRODUCTION

The United States of America has long been known as the land of opportunity: a premier destination for foreign nationals where fame and fortune are attainable, regardless of wealth, race, or background circumstances. Often overlooked, however, is that the United States has been a constant beacon of hope for many foreign nationals fleeing their native countries for fear of persecution as a result of their political associations, religious beliefs, and innate characteristics defining their humanity. Over the years, the United Nations has consistently recognized the United States as the country receiving the largest number of new asylum claims, far surpassing countries such as Germany, France, the United Kingdom, and Canada.[1] In 2012 alone, over 44,000 individuals filed asylum claims with the United States as a result of the alleged persecution they faced in their home countries.[2] One could imagine that such a long-standing tradition of receiving and adjudicating asylum applications would have resulted in well-established

* J.D., 2015, *magna cum laude*, Order of the Coif, University of Pittsburgh School of Law. Recent changes in the law and/or recent adjudications of cases mentioned in this article may not be accurately reflected. A tremendous amount of gratitude goes to my parents, Alfred and Beverly Ludlum. Thank you for your consistent and unwavering support with respect to each endeavor I have sought to pursue throughout my life. Additionally, thank you to Professor Brostoff for your guidance and mentorship throughout my law school career.

[1] U.N. HIGH COMM'R FOR REFUGEES (UNHCR), UNHCR ASYLUM TRENDS 2012: LEVELS AND TRENDS IN INDUSTRIALIZED COUNTRIES 12 (2013), *available at* http://www.unhcr.org/5149b81e9.html.

[2] EXEC. OFFICE FOR IMMIGRATION REVIEW, U.S. DEP'T OF JUSTICE, FY 2012 STATISTICAL YEAR BOOK 11 (2013), *available at* http://www.justice.gov/eoir/statspub/fy12syb.pdf.

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

precedent in the United States, resulting in uniform and consistent judicial rulings based on similar factual scenarios. Unfortunately, the opposite has been true. This has resulted in the application of a variety of tests and standards in adjudicating asylum claims and has led to inconsistent results within the circuit courts of the United States.[3]

This Note focuses on the often muddled terrain of defining what constitutes a particular social group in the context of asylum law in the United States. Particular focus will be given to asylum claims involving gender-based violence such as sexual abuse and trafficking. The overarching purpose of this Note is to analyze the various approaches taken by administrative bodies and courts when adjudicating asylum claims. The analysis will highlight the shortcomings of the social visibility and particularity test employed in various circuit courts and advocate for the most recent test employed by the Seventh Circuit in the case of *Cece v. Holder*.[4] This Note suggests that the Supreme Court should adopt the test set forth in the Seventh Circuit in order to achieve predictability and uniformity within the context of asylum law in the United States. Part II presents a foundational legal background of asylum law in the United States, including the administrative procedures involved in filing an asylum application, which is fundamental to understanding how asylum applications are adjudicated within the immigration court system. Part III explores the various tests that the Board of Immigrations Appeals ("BIA") and federal circuit courts have adopted when attempting to classify which members qualify as part of a valid social group—a task that has unfortunately resulted in conflicting results within the circuit courts. Part IV presents three factually similar cases from the Sixth Circuit, the Second Circuit, and the Seventh Circuit to highlight the varying considerations that each of the courts utilizes when adjudicating asylum applications. Finally, Part V introduces one of the most recent asylum cases in the Seventh Circuit (*Cece v. Holder*) and extrapolates upon why the reasoning therein is most appropriate in defining membership in a particular social group.

II. THE LEGAL BACKGROUND OF ASYLUM LAW IN THE UNITED STATES

Asylum law in the United States is primarily governed by the U.S. Immigration and Nationality Act of 1952 ("INA"), as well as the Refugee Act of 1980 that amended the INA, which determines asylum eligibility based on an

[3] *See infra* Parts III and IV.

[4] Cece v. Holder, 733 F.3d 662, 671–72 (7th Cir. 2013).

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

individual's ability to satisfy the definition of a "refugee."[5] Under the INA, an asylum seeker qualifies as a "refugee" by establishing that: (1) she has suffered persecution or has a well-founded fear of persecution, (2) as a result of her race, religion, nationality, membership in a particular social group, or political opinion, and (3) is unable or unwilling to escape persecution in her home country.[6] Upon establishing that an applicant for asylum fits within one of the enumerated categories listed in the second factor above, the applicant must prove that there is a nexus between her fear of future persecution and one of the five protected groups.[7] Often, asylum seekers are unable to establish that the persecution they face is on account of their race, religion, or nationality. As a result, many asylum seekers argue that the persecution they face is a direct result of their political opinion or their membership in a particular social group. Accordingly, membership in a particular social group has become the second most frequently utilized asylum claim in the United States.[8]

As a preface to understanding the current state of asylum law in the United States, it is important to understand the administrative structural mechanism that exists in the United States immigration court system. The administrative body responsible for adjudicating immigration cases is the Executive Office for Immigration Review ("EOIR").[9] The Attorney General delegates authority to the EOIR, allowing it to interpret and administer federal immigration laws by conducting immigration court proceedings, appellate reviews, and administrative

---

[5] Immigration and Nationality Act, 8 U.S.C. § 1101(a)(42) (2012).

[6] *Id.* Under the INA, the definition of a "refugee" reads as follows:

> [A]ny person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country 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[.]

Id.

[7] Escobar v. Holder, 657 F.3d 537, 542 (7th Cir. 2011).

[8] Melissa J. Hernandez Pimentel, Note, *The Invisible Refugee: Examining the Board of Immigration Appeals' "Social Visibility" Doctrine*, 76 MO. L. REV. 575, 576 (2010). The category of "political opinion" is the most frequently utilized asylum claim in the United States. *Id.* at 576 n.11.

[9] *About the Office*, U.S. DEP'T OF JUSTICE, http://www.justice.gov/eoir/orginfo.htm (last updated Jan. 23, 2015).

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

hearings.[10] There are two ways an asylum seeker may file an asylum application in the United States: by either an "affirmative" or a "defensive" asylum application. An "affirmative" asylum application is one that an applicant commonly files upon entering the United States.[11] When utilizing this process, an asylum seeker files her documentation with a United States Citizenship and Immigration Services ("USCIS") asylum officer. Alternatively, an asylum seeker can file a "defensive" application, usually as a response to removal proceedings that have been instituted against the individual.[12] If the asylum seeker's case is determined ineligible for asylum approval based on a USCIS officer's determination, whether "affirmative" or "defensive," that individual must appear before an immigration judge at the EOIR.[13] If the asylum seeker is still unsatisfied with the result of her case after appearing before the immigration judge, she then has the opportunity to appeal the decision to the BIA.[14] If the asylum seeker remains unsatisfied after the BIA's review of her case, she may appeal the BIA decision to a federal circuit court.[15] Notably, the asylum seeker must file an appeal in the federal circuit court in which her case originated.[16]

Once an asylum case makes its way to one of the circuit courts, the circuit court will review *de novo* the question of whether the asylum seeker is a member of a valid social group under the INA, as this aspect of the BIA's determination is a question of law.[17] However, the circuit court must also give deference to the BIA's administrative ruling according to the standard set forth in *Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc.*[18] In *Chevron*, the Supreme Court articulated a two-step inquiry to determine whether a court reviewing an agency's interpretation of a statute should be granted deference based on the agency's

[10] *Id.*

[11] *Obtaining Asylum in the United States*, U.S. CITIZENSHIP & IMMIGRATION SERVS. (Mar. 10, 2011), http://www.uscis.gov/humanitarian/refugees-asylum/asylum/obtaining-asylum-united-states.

[12] *Id.*

[13] 8 C.F.R. § 208.14 (2013).

[14] *See id.* § 1240.15.

[15] 8 U.S.C. § 1252(a)(1) (2012).

[16] *See id.* § 1252(b)(2).

[17] Cece v. Holder, 733 F.3d 662, 667 (7th Cir. 2013).

[18] I.N.S. v. Aguirre-Aguirre, 526 U.S. 415, 424 (1999); Chevron, U.S.A., Inc. v. Natural Res. Def. Council, Inc., 467 U.S. 837, 842–43 (1984).

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

interpretation and application of the statute.[19] The first step of the test requires the reviewing court to analyze whether Congress has spoken to the precise question at issue.[20] If it has, then the court will give no deference to the agency's interpretation of the statute.[21] If Congress has not spoken directly to the issue at hand, the court will proceed to the second step of the *Chevron* analysis and must defer to any "permissible construction" of the statute made by the agency.[22] Determining what validly qualifies as a particular social group falls under the second step of the *Chevron* analysis, as Congress did not directly speak to what constitutes a particular social group under the INA.[23] Thus, when a circuit court reviews a BIA decision, it must always grant *Chevron* deference to the administration's interpretation of the statute unless the BIA's interpretation is unreasonable, i.e., arbitrary, capricious, or clearly contrary to law.[24]

III. THE VARIOUS STANDARDS USED TO DEFINE MEMBERSHIP IN A PARTICULAR SOCIAL GROUP

Understanding the various tests currently utilized by the circuit courts in the United States, as well as the tests employed by the BIA in adjudicating cases, is foundational to understanding the circuit split that currently exists. The tests employed by the BIA are of particular importance, as the BIA's interpretation of what constitutes a particular social group is awarded *Chevron* deference whenever a circuit court reviews its decision.[25] This section seeks to highlight the considerations that go into the decision-making process of the BIA and the various circuit courts when adjudicating asylum claims in the United States.

The BIA first took on the task of identifying the parameters of a particular social group in the case of *Matter of Acosta* in 1985.[26] It was in this case that the

[19] *Chevron*, 467 U.S. at 842–43.

[20] *Id.*

[21] *Id.*

[22] *Id.* at 843.

[23] *Cece*, 733 F.3d at 669. *See also* Castillo-Arias v. U.S. Att'y Gen., 446 F.3d 1190, 1196 (11th Cir. 2006).

[24] *Chevron*, 467 U.S. at 844.

[25] *See id.*

[26] Matter of Acosta, 19 I. & N. Dec. 211, 232–35 (1985), *overruled, in part, on other grounds by* Matter of Mogharrabi, 19 I. & N. Dec. 439, 441 (B.I.A. 1987).

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

BIA first articulated the "immutable characteristics" test that circuit courts still utilize today.[27] In establishing this test, the court relied on the well-established doctrine of *ejusdem generis* to determine exactly what the term "membership in a particular social group" encapsulated.[28] The court looked to the other enumerated classifications listed in the INA, specifically race, religion, nationality, and political opinion, and found them to be immutable characteristics that an individual is unable to change or that are so fundamental to an individual's identity that she should not be required to change.[29] Based on the utilization of *ejusdem generis*, the court held that the meaning of membership in a particular social group means "persecution that is directed toward an individual who is a member of a group of persons all of whom share a common, immutable characteristic."[30] Up until 2006, both the BIA and federal circuit courts utilized the standard set forth in *Acosta* to define the parameters of membership in a particular social group.[31]

In 2006, the BIA began to shift its approach in defining membership in a particular social group and articulated additional factors to take into consideration

[27] *Id.* at 233.

[28] *Id.* The term *ejusdem generis* is a tool of statutory interpretation that courts in the United States have utilized throughout history to derive the intended meaning of a particular phrase or set of words. Literally interpreted, the phrase means "of the same kind." This statutory doctrine states that general words used in an enumeration with specific words should be construed in a manner consistent with the specific words. *See, e.g.*, Cleveland v. United States, 329 U.S. 14, 18 (1946).

[29] *Acosta*, 19 I. & N. Dec. at 233–34.

[30] *Id.*

[31] *See* Silva v. Ashcroft, 394 F.3d 1, 5 (1st Cir. 2005); Ucelo-Gomez v. Gonzales, 464 F.3d 163, 171 (2d Cir. 2006); Ghebrehiwot v. Att'y Gen. of U.S., 467 F.3d 344, 356 (3d Cir. 2006); Lopez-Soto v. Ashcroft, 383 F.3d 228, 235 (4th Cir. 2004); Mwembie v. Gonzales, 443 F.3d 405, 414–15 (5th Cir. 2006); Rreshpja v. Gonzales, 420 F.3d 551, 555 (6th Cir. 2005); Sepulveda v Gonzales, 464 F.3d 770, 771 (7th Cir. 2006); Hamzehi v. I.N.S., 64 F.3d 1240, 1246–47 (8th Cir. 1995); Niang v. Gonzales, 422 F.3d 1187, 1198–99 (10th Cir. 2005); Castillo-Arias v. U.S. Att'y Gen., 446 F.3d 1190, 1196–97 (11th Cir. 2006). Note that one year after the *Acosta* test took form, the Ninth Circuit adopted a "voluntary association" test which required a particular social group to have a common identity based on the members' voluntary association with one another. *See* Sanchez-Trujillo v. I.N.S., 801 F.2d 1571, 1576 (9th Cir. 1986), *abrogated on other grounds by* Cordoba v. Holder, 726 F.3d 1106, 1116 (9th Cir. 2013). However, in *Hernandez-Montiel v. I.N.S.*, the court expanded the voluntary association test to align more with the immutable characteristic set forth in *Acosta* and adopted by the BIA. Hernandez-Montiel v. I.N.S., 225 F.3d 1084, 1093 (9th Cir. 2000), o*verruled in part by* Thomas v. Gonzales, 409 F.3d 1177, 1187 (9th Cir. 2005). The court articulated that a particular social group "is one united by a voluntary association, including a former association, *or* by an innate characteristic that is so fundamental to the identities or consciences of its members that members either cannot or should not be required to change it." *Id.*

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

in the case of *In re C-A-*.[32] Although the BIA stated that the standard set forth in *Acosta* was the starting point for the social group analysis, the additional factors of "social visibility" and "particularity" of the group were also relevant considerations in the analysis.[33] In setting forth this new standard, the BIA determined the factor of particularity to be a "requirement," while maintaining that social visibility is a "relevant factor" in the analysis.[34] The court went on to state that social visibility is determined by focusing on "the extent to which members of a society perceive those with the characteristic in question as members of a social group."[35] In *In re C-A-*, the BIA held that non-criminal, confidential drug informants lacked social visibility, as the nature of their conduct generally requires that they go undetected by society at large.[36] Additionally, the group of non-criminal informants was "too loosely defined" to meet the particularity requirements set forth by the court.[37]

In 2007, shortly after the introduction of the BIA's new social visibility and particularity doctrine, the BIA added further confusion to defining membership in a particular social group as a result of its holding in *In re A-M-E- & J-G-U-*.[38] In ruling, the court stated that it was "reaffirming the requirement that the shared characteristic of the group should generally be recognized by others in the community," arguably misconstruing the "relevant factor" consideration articulated in *In re C-A-* as a mandated requirement for qualifying as a member of a social group.[39] By doing so, the court determined that the proposed group of "wealthy Guatemalans" was not readily identifiable or particular to meet the requirements of membership in a particular social group.[40] In two subsequent BIA rulings, *Matter of E-A-G-* and *Matter of S-E-G-*, the court reaffirmed its belief that social visibility and particularity are to be construed as requirements for establishing membership

[32] *See In re* C-A-, 23 I. & N. Dec. 951, 957 (B.I.A. 2006).

[33] *Id.* at 959–60.

[34] *Id.* at 960.

[35] *Id.* at 957.

[36] *Id.* at 960.

[37] *Id.* at 957.

[38] *See In re* A-M-E- & J-G-U-, 24 I. & N. Dec. 69 (B.I.A. 2007).

[39] *Id.* at 74.

[40] *Id.* at 74–76.

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

in a particular social group.[41] The apparent failure of the BIA to articulate a uniform test for adjudicating asylum cases has led to confusion for attorneys when advocating on behalf of their asylum-seeking clients and to inconsistent rulings within the circuit courts.[42] Additionally, the BIA's most recent test seems to define social groups much more restrictively, inevitably resulting in disqualifying asylum seekers who would most likely meet the standard articulated by the *Acosta* court.

The BIA seems to have taken note of this muddled terrain and on February 7, 2014, it issued two new precedential decisions affecting the contours of asylum law and clarifying the controversial "social visibility" requirement.[43] In each of these decisions, the BIA highlighted that social visibility was never intended to mean literal or "ocular" visibility within society.[44] To emphasize this point, the BIA went as far as changing the name of the element from "social visibility" to "social distinction."[45] The BIA went on to state that an applicant seeking membership in a particular social group must now establish that the group is: (1) composed of members who share a common immutable characteristic, (2) defined with particularity, and (3) socially distinct within the society in question.[46] As the BIA's test is brand new and has yet to reach any of the circuit courts, it is unknown how the federal appellate courts will treat the "socially distinct" element of the test.

As a result of the introduction of the aforementioned tests for defining a particular social group, the federal circuit courts have come to differing conclusions

---

[41] Matter of E-A-G-, 24 I. & N. Dec. 591, 594 (B.I.A. 2008) (finding that the proposed group of "persons resistant to gang membership" lack social visibility within Honduran society thus preventing members of society from recognizing these individuals as members of a particular group); Matter of S-E-G-, 24 I. & N. Dec. 579, 590 (B.I.A. 2008) (finding that "Salvadoran youth who refused recruitment into the MS-13 criminal gang or their family members" do not constitute a particular social group based in part because a social group "requires that the group have particular and well-defined boundaries, and that it possess a recognized level of social visibility").

[42] *See generally* Benjamin Casper et al., *The ~~Evolution~~ Convolution of Particular Social Group Law: From the Clarity of* Acosta *to the Confusion of* S-E-G-, AM. IMMIGR. LAW. ASS'N IMMIGR. PRAC. POINTERS (2010–2011), *available at* http://www.ilcm.org/documents/litigation/AILA_Advisory_Social_Group-new.pdf. The authors of this publication provide a comprehensive description of how the law has evolved and how the BIA has often failed to delineate between requirements and considerations in the adjudication analysis. *See id.*

[43] *See* Matter of M-E-V-G-, 26 I. & N. Dec. 227, 240–41 (B.I.A. 2014); *see also* Matter of W-G-R-, 26 I. & N. Dec. 208 (B.I.A. 2014).

[44] *M-E-V-G-*, 26 I. & N. Dec. at 228; *W-G-R-*, 26 I. & N. Dec. at 216.

[45] *M-E-V-G-*, 26 I. & N. Dec. at 228; *W-G-R-*, 26 I. & N. Dec. at 216.

[46] *M-E-V-G-*, 26 I. & N. Dec. at 237; *W-G-R-*, 26 I. & N. Dec. at 208.

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

as to whether they are willing to accept the BIA's new definition for defining a social group and whether they consider social visibility and particularity as prerequisites for obtaining asylum status. Currently, a majority of the circuit courts adhere to the BIA's formulation in defining membership in a particular social group, utilizing the immutable characteristics test from *Acosta* as an aspect of the analysis but also requiring social visibility and particularity as additional requirements in setting forth a cognizable social group.[47] These courts include the First, Second, Fourth, Sixth, Eighth, Tenth, and Eleventh Circuits.[48]

The Third and Seventh Circuits have rejected the social visibility and particularity requirements, finding them incompatible with the long-standing approach established in *Acosta* that stressed immutable characteristics as the primary factor in the particular social group analysis.[49] In *Valdiviezo-Galdamez*, the Third Circuit rejected the social visibility and particularity standards that the BIA had relied on in the cases of *Matter of S-E-G-* and *Matter of E-A-G-* when denying Valdiviezo-Galdamez's proposed social group of "young men who have been actively recruited by gangs and who have refused to join the gangs."[50] The court agreed with Valdiviezo-Galdamez's argument that the BIA's social visibility and particularity tests were inconsistent with prior BIA decisions and thus should not be

---

[47] *See infra* note 48.

[48] *See, e.g.*, Rojas-Pérez v. Holder, 699 F.3d 74, 77 (1st Cir. 2012) (stating that a "cognizable social group is one whose members share a common, immutable characteristic that makes the group socially visible and sufficiently particular"); Fuentes-Hernandez v. Holder, 411 F. App'x 438, 438–39 (2d Cir. 2011) (finding individuals from El Salvador who "resisted gang recruitment" do not constitute a particular social group because they could not demonstrate "particularity and social visibility"); Lizama v. Holder, 629 F.3d 440, 446 (4th Cir. 2011) (stating that "young, Americanized, well-off Salvadoran male deportees with criminal histories who oppose gangs" do not constitute a social group because they do not have social visibility nor do they meet the definition of particularity); Bonilla-Morales v. Holder, 607 F.3d 1132, 1137 (6th Cir. 2010) (stating that the individual's claim likely does not meet the social visibility and particularity requirements, but inevitably ruled on the asylum based on the lack of a nexus requirement); Gaitan v. Holder, 671 F.3d 678, 681 (8th Cir. 2012) (stating that the social visibility and particularity requirements are not arbitrary or capricious); Rivera-Barrientos v. Holder, 666 F.3d 641, 648–54 (10th Cir. 2012) (analyzing the particularity and social visibility requirements, resulting in the court affirming the BIA's formulation that a group must be defined with particularity and accepting the social visibility test); Castillo-Arias v. U.S. Att'y Gen., 446 F.3d 1190, 1197 (11th Cir. 2006) (accepting the utilization of the social visibility requirement and stating that non-criminal informants "who remain anonymous are not visible enough to be considered a 'particular social group,' as the very nature of the activity prevents them from being recognized by society at large").

[49] *See, e.g.*, Gatimi v. Holder, 578 F.3d 611, 614–15 (7th Cir. 2009); Valdiviezo-Galdamez v. Att'y Gen. of U.S., 663 F.3d 582, 607 (3d Cir. 2011).

[50] *Valdiviezo-Galdamez*, 663 F.3d at 607.

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

awarded *Chevron* deference.[51] The court bolstered its argument by citing to other recognized particular social groups where there was little indication that society at large would be able to discern any of the members' characteristics as "socially visible or recognizable."[52] The Seventh Circuit has taken a similar approach in rejecting the social visibility and particularity considerations, doing so most recently in the case of *Cece v. Holder*.[53]

IV. ANALYZING THE INCONSISTENCY WITHIN THE U.S. CIRCUIT COURTS

The treatment of Albanian women fearing persecution, particularly in the context of sex trafficking, illustrates the disparate adjudication of asylum cases that possess quite similar factual scenarios. Several of these sex trafficking cases, all of which have been adjudicated by different circuit courts, are set out below to articulate the varying approaches utilized by each of the respective courts in reaching their conclusions.

The first case, *Rreshpja v. Gonzalez*, comes out of the Sixth Circuit.[54] In June of 2001, Rreshpja was the victim of an attempted abduction by an unknown man in Tirana, Albania, as she was walking home from school.[55] As Rreshpja fled for safety, she heard her attacker state that she should not get too excited because she would end up on her back in Italy like many other girls.[56] Rreshpja understood this comment as a threat that she would eventually be captured and forced into work as a prostitute.[57] She eventually fled to the United States and made arrangements to stay with her older brother in Michigan by obtaining an F-1 nonimmigrant visa in order to enroll in an academically accredited institution in the United States.[58] Upon attempting to enroll in Michigan State University, Rreshpja was informed

[51] *Id.* at 603.

[52] *Id.* at 604.

[53] *See infra* Part IV (analyzing the court's reasoning and holding in *Cece v. Holder*).

[54] Rreshpja v. Gonzales, 420 F.3d 551 (6th Cir. 2005).

[55] *Id.* at 553.

[56] *Id.*

[57] *Id.*

[58] *Id.*

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

that the documents used to obtain her visa were fraudulent, and deportation proceedings were instituted against her in June of 2002.[59]

The Sixth Circuit denied Rreshpja's social group claim, despite the specific targeting of being forced into prostitution and the prevalence of sex trafficking in Albania.[60] Particularly, the court determined that the proffered social group of "young (or those who appear to be young), attractive Albanian women who are forced into prostitution" did not constitute a particular social group under the INA for two reasons.[61] First, the court expressed concern that the proposed social group was too "generalized" and refused to accept such "sweeping classifications" of individuals for purposes of an asylum claim.[62] This aspect of the court's reasoning seemed to focus on the particularity of the proffered social group. Second, the court stated that "a social group may not be circularly defined by the fact that it suffers persecution."[63] Thus, the court expressed that there must be narrowing characteristics when defining the parameters of a valid social group. Without these narrowing criteria, the court feared that any young, Albanian woman who could be subjectively determined to be attractive would meet the eligibility criteria for asylum in the United States.[64]

The Second Circuit in *Lushaj v. Holder* adjudicated a factually similar case.[65] In 1998, Lindita Lushaj was a twelfth grade student living with her mother and sister in Tropoje, Albania.[66] In June of that year, Lushaj's close friend, Hapixhe, was abducted by the Haklaj gang and forced into prostitution.[67] Hapixhe was able to inform her mother of this abduction and that she had seen a list of names of other women who were to be abducted in the near future.[68] Lushaj's name appeared on

---

[59] *Id.* at 553–54.

[60] *Id.* at 555.

[61] *Id.*

[62] *Id.*

[63] *Id.* at 556.

[64] *Id.*

[65] Lushaj v. Holder, 380 F. App'x 41 (2d Cir. 2010).

[66] Brief for Petitioner at 6, Lushaj v. Holder, 380 F. App'x 41 (2d Cir. 2010) (No. 09-2914-ag), 2009 WL 7858695.

[67] *Id.*

[68] *Id.*

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

this list.[69] In the subsequent weeks, Lushaj was forced into seclusion based on her fear of abduction.[70] In July of 1999, Lushaj moved from Tropoje to Tirana in order to evade capture from gang members that were looking for her in her hometown.[71] While in Tirana, Lushaj's family received multiple threatening calls from Haklaj gang members stating that the gang was still actively seeking Lushaj and that they would eventually abduct her.[72] In September of 1999, Lushaj was admitted into the United States on an F-1 nonimmigrant visa and subsequently filed her application for asylum in November of 2003.[73] In January of 2004, removal proceedings were instituted against Lushaj. In April of 2007, an immigration judge determined that she was subject to removal from the United States.[74]

In *Lushaj*, the petitioner set forth her cognizable social group as (1) "young women in Albania," and (2) "women who were previously targeted for sex-trafficking by members of the Haklaj gang and who managed to escape and avoid capture."[75] The court found the BIA's view and reasoning reasonable, wherein the BIA determined that the immigration judge erred in finding Lushaj to be a member of a particular social group.[76] The BIA came to this conclusion by reasoning that membership in the social group was circular because it was based exclusively on the persecution suffered by its members.[77] However, the court went on to state that the BIA may have misconstrued the immigration judge's reasoning, which could have been that Lushaj qualified as a member of a group who was being targeted by the Haklaj gang based on her family's political views.[78] Even under this political view classification and interpretation, the court reasoned that Lushaj would not qualify for asylum, as such a group was not perceived as a discrete group by Albanian society.[79] In so doing, the Second Circuit employed aspects of the social

[69] *Id.*

[70] *Id.* at 7.

[71] *Id.*

[72] *Id.*

[73] *Id.* at 8.

[74] *Id.* at 9.

[75] Lushaj v. Holder, 380 F. App'x 41, 43 (2d Cir. 2010).

[76] *Id.*

[77] *Id.*

[78] *Id.*

[79] *Id.*

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

visibility doctrine that the BIA now utilizes in defining the parameters of a particular social group.[80]

The most recent case for analysis comes out of the Seventh Circuit: *Cece v. Holder*.[81] In 2001, members of Johanna Cece's family left their native country of Albania.[82] Shortly thereafter, Cece caught the attention of a criminal gang in the area because she was a young woman living alone in that country.[83] The gang was notorious for forcing women into prostitution rings.[84] The gang's leader, Reqi, confronted Cece on June 4, 2001, when he pinned her against a wall in a cosmetics store.[85] Although Cece reported this incident to police, the authorities dismissed it due to a lack of proof, confirming Cece's belief that these gangs enjoyed complete immunity from the law.[86] Only days after the incident, an individual threw a rock through Cece's window at her home.[87] As a result of these threats, Cece stopped going to school, stopped going out in public, and made plans to immediately leave Korce, Albania.[88] Cece migrated 120 miles north to Tirana to stay with her sister who lived in a university dormitory, but this safety was short-lived once Cece's sister left the university approximately a year later.[89] Cece once again found herself a target as a single woman living alone in Albania and decided to escape the country.[90] In 2002, Cece obtained a fraudulent passport and entered the United States under the Visa Waiver Program.[91] Less than a year after entering the United States, Cece applied for asylum and withholding of removal, stating a fear of

[80] *See In re* C-A-, 23 I. & N. Dec. 951 (B.I.A. 2006).

[81] Cece v. Holder, 733 F.3d 662 (7th Cir. 2013).

[82] *Id.* at 666.

[83] *Id.*

[84] *Id.*

[85] *Id.* at 666–67.

[86] *Id.* at 667.

[87] *Id.*

[88] *Id.*

[89] *Id.*

[90] *Id.*

[91] *Id.*

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

returning to Albania because she believed that, as a young female living alone in Albania, she would be kidnapped and forced into a prostitution ring.[92]

In *Cece*, the court found that the proffered group of "young woman living alone in Albania" qualifies as a cognizable social group, as the attributes that define that group are immutable or fundamental.[93] Specifically, the court concluded that a particular social group can be defined by an immutable characteristic such as "a shared past experience or status [imparting] some knowledge or labeling that cannot be undone."[94] The court went on to preempt any concerns about the alleged overly broad definition of a social group by stating that, although the category of persons meeting the definition of a particular social group may be large, the number who are able to demonstrate the required nexus is likely not.[95] Additionally, the court referenced its prior decision in *Ioa v. Gonzales* for the proposition that the breadth of a category is an irrelevant consideration in defining the parameters of those who constitute a valid social group for purposes of asylum law.[96] In a final articulation of the test being set forth, the Seventh Circuit stated that a particular social group can be defined by "gender plus one or more narrowing characteristics."[97] As such, the Seventh Circuit remanded the case to the EOIR for further proceedings based on the court's reasoning.[98]

V. ADOPTING THE APPROACH IN *CECE V. HOLDER* AS A WORKABLE CONSTRUCT

As established above, a conflict exists among the circuit courts regarding the definition of membership in a particular social group.[99] By utilizing the current framework that exists in the Seventh Circuit, in addition to the reasoning set forth in *Cece v. Holder*, great strides can be made in this particular area of asylum law. Such progress would lead to the ideal result of achieving consistency and uniformity in adjudicating asylum applications. The approach taken by the Seventh

[92] *Id.*

[93] *Id.* at 677.

[94] *Id.* at 670.

[95] *Id.* at 673.

[96] *Id.* at 674 (citing Iao v. Gonzales, 400 F.3d 530, 533 (7th Cir. 2005)).

[97] *Id.* at 676.

[98] *Id.* at 678.

[99] *See supra* Part III.

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

Circuit is appropriate for two primary reasons. First, it properly aligns with the desired policy goals of Congress when constructing U.S. asylum law within the United States. Second, it adheres to the long-established immutable characteristics test first articulated in *Acosta*, abandoning the problematic social visibility and particularly requirements. This section concludes by setting forth various courses of action that can be taken to implement the Seventh Circuit's approach to defining membership in a particular social group.

The purpose behind enacting the INA was to protect individuals who are unable to protect themselves from persecution in their native country.[100] When drafting the INA, Congress relied on the United Nation's 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees to define the term "refugee."[101] Just prior to amending the INA by way of the Refugee Act of 1980, the United Nations High Commissioner for Refugees released the *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*.[102] This handbook of procedures set forth the accepted interpretation of the United Nation's at that time, stating, in pertinent part, that "a 'particular social group' normally comprises persons of similar background, habits, or social status."[103] Such interpretation has accorded the definition of a particular

[100] *See* 8 U.S.C. § 1101(a)(42) (2012) (stating, in pertinent part, that "[t]he term 'refugee' means (A) any person who is outside any country of such person's nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country 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[.]").

[101] Matter of B-R-, 26 I. & N. Dec. 119, 121 (B.I.A. 2013). *See also* Protocol Relating to the Status of Refugees, art. 1, Jan. 31, 1967, 19 U.S.T. 6223, 606 U.N.T.S. 267; Convention Relating to the Status of Refugees, art. 1, July 28, 1951, 19 U.S.T. 6259, 189 U.N.T.S. 150. Under both of these documents, "refugee" is defined as one who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country." 189 U.N.T.S. at 152.

[102] *See* Kelly Karvelis, Note, *The Asylum Claim for Victims of Attempted Trafficking*, 8 NW. J.L. & SOC. POL'Y 274, 284 (2013); OFFICE OF UNITED NATIONS HIGH COMM'R FOR REFUGEES (UNHCR), HANDBOOK AND GUIDELINES ON PROCEDURES AND CRITERIA FOR DETERMINING REFUGEE STATUS UNDER THE 1951 CONVENTION AND THE 1967 PROTOCOL RELATING TO THE STATUS OF REFUGEES, U.N. DOC. HCR/1P/4/ENG/REV.3 (2011), *available at* http://www.refworld.org/docid/4f33c8d92.html [hereinafter UNHCR HANDBOOK].

[103] UNHCR HANDBOOK, *supra* note 102, at ¶ 77.

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

social group an expansive construction.[104] The incorporation of similar language in the INA, coupled with the lack of any limiting barriers within the statute, signifies that Congress intended to adopt the United Nation's definition of "refugee" at that time.[105]

It is with this understanding that the analysis found in the Sixth Circuit's case of *Rreshpja* seems irrational. As previously articulated, the court in *Rreshpja* reasoned that the proffered social group failed to constitute a particular social group under the INA for being too "generalized."[106] Additionally, the court feared that such an expansive definition under the INA would open the floodgates to an abundance of Albanian women qualifying for asylum in the United States.[107] These considerations defy the legislative intent and purpose of enacting the INA, and they incorporate baseless considerations that are found neither in the INA nor its international counterpart. The factors in the Sixth Circuit's reasoning constitute an unwarranted deviation from the statute. The court in *Cece* adequately addressed this issue by explaining that, although a category of persons may be large, the number of persons able to establish the required nexus element likely is not.[108] Further, the court in *Cece* found that the social group constructed in the case consisted of gender plus one or more narrowing characteristics, thus limiting the number of similar individuals that would be able to establish an asylum claim.[109] By focusing on the breadth of the potential social group rather than the group's characteristics and subsequent persecution due to those characteristics, the Sixth Circuit has misconstrued the legislative underpinnings in adjudicating asylum applications within its circuit.

The Seventh Circuit properly rejects the social visibility and particularity requirements, which have been adopted by the BIA and the majority of circuits as a result of the ruling in *In re C-A-*.[110] Although it has yet to be seen how the new

---

[104] *See* Karvelis, *supra* note 102 (providing an in-depth analysis of the legislative history of the Refugee Act of 1980, arguing that the intent derived from said legislative history properly identifies Congress' intention to construe the term "particular social group" expansively).

[105] *Id.*

[106] Rreshpja v. Gonzales, 420 F.3d 551, 555 (6th Cir. 2005).

[107] *Id.*

[108] Cece v. Holder, 733 F.3d 662, 673 (7th Cir. 2013).

[109] *Id.* at 676.

[110] *Id.* at 668 n.1.

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

precedential decisions of *Matter of M-E-V-G-* and *Matter of W-G-R-* will affect this social visibility requirement, it is clear that the premise of the test is inherently flawed. Judge Posner evidences this point clearly in the case of *Gatimi v. Holder*, stating that groups facing persecution often take drastic steps to obscure their identities from social visibility so as to avoid persecution as a result of their characteristics.[111] This is particularly true in cases involving gender-based persecution, including domestic violence and sex trafficking. Requiring a group to maintain some sort of public identity in a country in which it already faces persecution seems to encourage the likelihood of danger that may befall targeted groups of individuals. This reason, alone, evidences why the social visibility criteria should be abandoned in the asylum adjudication process. This irrational requirement directly contradicts the purpose of asylum law, which is to protect groups from persecution. Individuals should be encouraged to take whatever means necessary to ensure their safety while attempting to flee from dangerous circumstances not incentivized to make themselves publically visible.

Additionally, the confusion resulting from the formulation of the social visibility and particularity requirements is evidenced by the BIA's two most recent decisions.[112] The fact that the BIA found it necessary to change the element's name from "social visibility" to "social distinction" is telling, and it speaks to the confusion that immigration courts have faced when applying these concepts.[113] The BIA has also been extremely inconsistent in applying the social visibility doctrine to breed uniformity among asylum applications, as noted by Judge Posner in *Gatimi*.[114] For example, in *In re Kasinga*, the BIA recognized a valid social group that consisted of "young women of the Tchamba-Kunsuntu Tribe who have not had [female genital mutilation], as practiced by that tribe, and who oppose the practice."[115] This case has a striking similarity to *In re A-T-*, where the BIA opined

---

[111] Gatimi v. Holder, 578 F.3d 611, 615 (7th Cir. 2009) (stating that "if you are a member of a group that has been targeted for assassination or torture or some other mode of persecution, you will take pains to avoid being socially visible").

[112] *See* Matter of M-E-V-G-, 26 I. & N. Dec. 227 (B.I.A. 2014); *see also* Matter of W-G-R-, 26 I. & N. Dec. 208 (B.I.A. 2014).

[113] *M-E-V-G-*, 26 I. & N. Dec. at 228; *W-G-R-*, 26 I. & N. Dec. at 216.

[114] *Gatimi*, 578 F.3d at 616 (speaking to the BIA's inconsistent application of the social visibility doctrine by finding some particular social groups valid without reference to the social visibility requirement, yet still "refusing to classify socially invisible groups as particular social groups . . . without repudiating the other line of cases").

[115] *In re* Kasinga, 21 I. & N. Dec. 357 (B.I.A. 1996).

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

that Young Bambara women who oppose arranged marriages likely do not constitute a particular social group based on a lack of social visibility to their potential persecutors.[116] Although *In re Kasinga* was adjudicated prior to the introduction of the social visibility doctrine, the fact that the BIA has failed to repudiate this line of case law (which makes no mention of social visibility or particularity requirements) evidences the disparate analyses that currently exist in BIA decisions. Abandoning the social visibility doctrine would ensure that similar factual scenarios would be analyzed under a consistent and uniform framework, falling more in line with pre-*In re C-A-* asylum application adjudications.

Abandoning the social visibility and particularity requirements, and solely adopting the *Acosta* formulation framework, would seek to align the cases of *Rreshpja* and *Lushaj* with that of *Cece*. In *Rreshpja*, by removing the particularity requirement from the equation and focusing on the immutable and narrowing characteristics as articulated in *Cece*, a court would likely determine that Rreshpja's group of young and attractive Albanian women constitutes a valid social group.[117] Rreshpja clearly evidenced an immutable characteristic along with narrowing characteristics, both of which caused her to face persecution in her native country.[118] In a similar vein, eliminating social visibility would bring the case of *Lushaj* in line with *Cece*. By removing the emphasis on social visibility, which was the primary consideration of the court in *Lushaj*, the court could have properly focused on the immutable and narrowing characteristics possessed by Lushaj.[119] Namely, these considerations would have consisted of young, Albanian women who managed to escape and avoid capture from members of the Haklaj gang.[120] By making these considerations the focal point of the analysis, the circumstances could be analogized to those of *Cece* thus enabling Lushaj to

[116] *See In re* A-T-, 24 I. & N. Dec. 296 (B.I.A. 2007). This decision was ultimately vacated and remanded by the Attorney General in *Matter of A-T-*, 24 I. & N. Dec. 617 (B.I.A. 2008) for different reasons. *See also Renewing America's Commitment to the Refugee Convention: The Refugee Protection Act of 2010: Hearing on S. 3113 Before the S. Comm. on the Judiciary*, 111th Cong. (2010) (statement of Layli Miller-Muro, Executive Director of Tahirih Justice Center), *available at* http://www.tahirih.org/site/wp-content/uploads/2009/03/Tahirih-Justice-Ctr-Statement-for-Refugee-Protection-Act-Hearing-05-19-10.pdf (providing testimony at a Senate Committee discussing this comparison to elucidate the inconsistency in the BIA's application of the social visibility doctrine).

[117] *See* Rreshpja v. Gonzales, 420 F.3d 551, 555 (6th Cir. 2005).

[118] *See id.*

[119] *See* Lushaj v. Holder, 380 F. App'x 41, 43 (2d Cir. 2010).

[120] *See id.*

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

establish membership in a cognizable social group. These predictive analyses stress the need for a unified framework, as the current adjudication of asylum applications contravenes fairness: strikingly similar factual scenarios lead to wildly different outcomes.

As a country that prides its judicial system on principles such as *stare decisis* and judicial restraint, it is only proper that the United States seek a uniform and consistent approach when adjudicating asylum applications. One of the most effective ways to accomplish this goal would be for the U.S. Supreme Court to grant a *writ of certiorari* to rectify the split that currently exists in the circuit courts. In fact, the Supreme Court will have the opportunity to confront this issue directly, as a Petition for Writ of Certiorari has been filed in the case of *Rojas-Perez v. Holder*, addressing this specific issue.[121] The Supreme Court should take advantage of this opportunity to establish a uniform test for adjudicating asylum applications in the future.

An alternative suggestion is a call to Congress to amend the INA in an effort to clarify the ambiguities surrounding the definition of a particular social group. The Refugee Protection Act of 2013, introduced by Senator Patrick Leahy of Vermont, seeks such reform in this area.[122] The bill was introduced on March 21, 2013, although it has remained in the congressional committee stage since its introduction. While the passage of such a bill is rather unlikely,[123] the proposed amendment to Section 101(a)(42) of the INA would add much needed guidance in clarifying the term "refugee." Specifically, it proposes amending part of the aforementioned section to add clarity in defining a particular social group, stating, in relevant part, that:

> For purposes of determinations under this Act, any group whose members share a characteristic that is either immutable or fundamental to identity, conscience, or the exercise of the person's human rights such that the person should not be

[121] Petition for Writ of Certiorari, Rojas-Perez v. Holder, 699 F.3d 74 (1st Cir. 2012) (No. 13-174), 2013 WL 4027030.

[122] Refugee Protection Act of 2013, S. 645, 113th Cong. (2013). *See also* Casper et al., *supra* note 42 (noting the definition of "refugee" in Senator Patrick Leahy's 2010 Refugee Protection Act).

[123] *See S. 645 (113th): Refugee Protection Act of 2013*, GOVTRACK.COM (Mar. 21, 2013), https://www.govtrack.us/congress/bills/113/s645#overview (estimating that the Refugee Protection Act of 2013 has a mere 7% chance of enactment by Congress).

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

> required to change it, shall be deemed a particular social group, without any additional requirement.[124]

Amending this language in the INA would alleviate the inconsistent approaches currently utilized by the courts. Further, such an amendment would have the added benefit of breeding uniformity within the realm of asylum law by limiting judicial discretion when defining membership in a particular social group.

A final alternative, less cumbersome than amending the INA, is to ask the Department of Justice and the Department of Homeland Security to issue a joint rule clarifying how immigration judges should define membership in a particular social group.[125] In fact, President Obama has hinted at such a solution in his immigration reform proposal, stating that "[t]he proposal streamlines immigration law to better protect vulnerable immigrants, including those who are victims of crime and domestic violence[,] better protect[ing] those fleeing persecution by eliminating the existing limitations that prevent qualified individuals from applying for asylum."[126] Here, the idea is that issuing a joint rule could add much needed clarity to this area of asylum law without requiring the daunting task of formulating a new regulation or amending the INA. In fact, such clarification of the INA has been part of President Obama's regulatory plan since 2009 but remains one of his unmet priorities.[127]

VI. CONCLUSION

If one thing is clear in the realm of defining membership in a particular social group for purposes of asylum application adjudication, it is that the law is not. It is unfortunate that after escaping victimization at the behest of perpetrators in their native country, asylum applicants often fall victim to arbitrarily constructed criteria set forth by the BIA and inevitably adopted by the majority of circuit courts. By resolving the conflict that currently exists in the circuit courts in favor of the

---

[124] Refugee Protection Act of 2013, S. 645, 113th Cong. (2013).

[125] *See* Molly Redden, *A Sex Trafficking Victory That Shows Just How Broken the System Is*, NEW REPUBLIC (Aug. 29, 2013), http://www.newrepublic.com/article/114512/obama-should-fix-gender-based-asylum-claims-he-leaves-office (discussing the idea of writing of a joint rule and how such a process is much less onerous than issuing new regulations).

[126] Press Release, The White House Office of the Press Sec'y (Jan. 29, 2013), *available at* http://www.whitehouse.gov/the-press-office/2013/01/29/fact-sheet-fixing-our-broken-immigration-system-so-everyone-plays-rules.

[127] Redden, *supra* note 125.

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu

Seventh Circuit's approach, the United States can begin the process of applying a uniform and consistent set of standards that properly adheres to the INA and international law alike. The net result is a fair and balanced system that focuses on providing those individuals who have been persecuted throughout their lives an opportunity to live free from such fear and violence in the United States.

ISSN 0041-9915 (print) 1942-8405 (online) ● DOI 10.5195/lawreview.2015.385
http://lawreview.law.pitt.edu