TO: All J.D. Candidates at Yale Law School
FROM: Yale Law Journal Volume 124 Notes Committee (Meng Jia Yang, Sam Adriance, Marguerite Colson, Charles Dameron, Christopher Milione, Robert Nightingale, Devon Porter, Conrad Scott, Julie Veroff, and Rachel Bayefsky)
RE: Note Submissions Process
DATE: February 14, 2014

Introduction

We encourage all current J.D. students to submit a Note for publication in Volume 124 of the Yale Law Journal. Publication in the Journal allows student authors to share their ideas with the legal community. We are strongly committed to publishing a wide variety of Notes that reflect the diversity of interests at the law school.

Our first drop date will be Friday, February 28 at 5:00pm. Our next two drop dates will be on Friday, April 11 at 5:00pm and Friday, June 20 at 5:00pm. We plan to schedule more drop dates in the fall.

The Notes Committee is committed to working one-on-one with students to develop their writing. You can request a Notes Development Editor (NDE) who will work with you on any stage of Notes development. We highly encourage you to take advantage of this resource. The deadlines before Drop Dates for requesting an NDE this spring will be February 18, April 1, and June 10, respectively. After submission, the Notes Committee sends authors whose Notes are not accepted a Revise & Resubmit letter (see below). If you receive a Revise & Resubmit letter, your NDE can continue to work with you on revising the piece for resubmission.

Please refer to the rest of this memo for details on developing and submitting Notes. The Notes Committee reviews submissions anonymously. To preserve anonymity, all questions regarding the Notes submissions process and requests for NDEs should be directed to Managing Editor Sopen Shah (sopen.shah@yale.edu).
What Is a Note?

A Note is a student-written piece of legal scholarship. Notes are not limited by topic, methodology, or approach. Successful Notes typically share the following three characteristics:

- **Original**: It should advance a particular area of legal scholarship beyond its current state.

- **Well supported**: The Note should provide persuasive evidence for each of its conclusions and acknowledge the limits of its arguments. Authorities should support each step in the argument. Citations should be complete and unambiguous.

- **Well-written and well-organized**: Concise, effective prose and clear, logical presentation are essential. A Note should clearly convey its thesis and the relevance of each section.

We welcome Notes adapted from clinical briefs, memos or seminar papers. Although Notes can begin as Substantials or SAWs, good Notes differ from most Substantials and SAWs in a couple of ways. Notes need not contain a lengthy literature review and should proceed quickly to original analysis. They should be directed at a broad legal audience, not at one professor.

Notes published in previous volumes of the *Journal* provide examples of excellent student scholarship. Recent examples include:


Who Can Submit a Note?

All J.D. candidates are eligible to submit Notes. Students may submit co-written Notes as long as all authors are J.D. candidates. Students who have already acquired a J.D. or its foreign equivalent may not submit a Note but are welcome to submit Articles, Essays, and YLJ Forum pieces.

Eligible students may publish up to one Comment and one Note in Volume 124, but cannot publish more than one of either.

Developing Your Note

We strongly encourage you to work with a Notes Development Editor (NDE) as you develop your Note. NDEs are available to provide substantive, stylistic, and organizational advice at any stage of the writing process—from formulating an idea to polishing a completed piece. They are also available to answer any questions you may have about the Notes submission process. Please note that NDEs will be recused from discussing and voting on Notes to which they are assigned.
Please do not contact a Notes Editor directly to request his or her assistance in developing your submission. Instead, email Managing Editor Sopen Shah. In your email, include a brief description of your Note’s topic or proposed topic and any preferences you have about working or not working with a particular Editor. Please also indicate if any Notes Editors would be able to identify you as the author of the submission, and thus be forced to recuse themselves from considering your submission. The Managing Editor will assign you a Notes Editor with these considerations in mind. The Managing Editor will assign Notes Editors to authors on a first-come, first-served basis.

**Notes Revision**

All students submitting Notes will be notified promptly after the Committee’s decision. Students whose work is not accepted will receive an email message indicating the decision. This will be followed by a Revise & Resubmit letter (R&R) providing feedback and evaluation. A Notes Development Editor may also contact you offering to assist you in revising the piece.

Please note that most Notes have been accepted only after revision and resubmission, so students whose Notes are not accepted are strongly encouraged to work with a Notes Development Editor to revise their Notes and resubmit at a future review date. We encourage you to submit your Note sooner rather than later. The sooner you submit, the more time you will have to integrate the Notes Committee’s suggestions into your revised version.

**Anonymity**

Because the Notes acceptance process is anonymous, you should refrain from discussing your Note with members of the Committee other than the Notes Editor assigned through the Notes development process described above. To that end, please do not discuss your Note with Meng Jia Yang, Sam Adriance, Marguerite Colson, Charles Dameron, Christopher Milione, Robert Nightingale, Devon Porter, Conrad Scott, Julie Veroff, or Rachel Bayefsky. Committee members who can identify a submission’s author with confidence must recuse themselves from considering that piece.

The Notes Committee will not consider submissions that contain identifying information about the author. Prior to uploading any documents, double check to make sure that you have removed all self-identifying references from your documents (except the Submission Form, which is the only document that should contain identifying information). Please right-click all documents to be submitted (except the Submission Form), click on properties, and delete your name from all relevant fields under the Summary tab.

**Journal Membership**

The *Journal* encourages non-*Journal* members to submit Notes. Members of the Class of 2016 or 2017 who are the sole authors of accepted Notes will be invited to join the *Journal* as editors. Authors of accepted Notes from the Class of 2015 will be eligible for membership if the Note is accepted before the end of September 2014. The *Journal* will not extend offers of membership to the authors of co-written Notes.
We hope that you will accept your offer of membership and join the Journal as a First Year Editor, fulfilling the same responsibilities as your peers in that role. If you have additional questions about becoming a Journal member, you will have an opportunity to ask them before accepting the membership offer. You will not need to decide until after we have committed to publishing your Note.

**Note Format**

The Notes Committee is seeking Notes that are 15,000 words or fewer. There is no minimum length for Notes. The word count must include text and footnotes, but need not include the Abstract, Table of Contents, or Statement of Originality. The text of your Note should be in 12-point Times New Roman font and may be single- or double-spaced. Footnotes should be in 10-point Times New Roman font and single-spaced. All pages should be consecutively numbered with 1-inch margins. Please pay careful attention to spelling, Bluebooking, and other similar technical details.

**Statement of Originality**

Each submitted and resubmitted Note should be accompanied by a thorough explanation of how the Note stands apart from existing literature on the topic. Of course, every piece of scholarship relies on what has come before, so the statement should also discuss the Note’s major sources and intellectual debts, including both cited and un-cited scholarship that may be useful in understanding the background for your topic. Do not merely list your sources, but explain them and distinguish your argument from those of other authors. A sample statement appears below.

Please do not be intimidated by the Statement of Originality! Instead, think of it as a chance to pitch your novel idea to an inexpert audience. Feel free to supply ideas or material that would contribute to an appreciation of your argument but that were not emphasized in the Note itself. There is no minimum or maximum length for the statement. The average length is three to four single-spaced pages. Statements should err on the side of over-inclusiveness, especially with regard to the scope of the existing literature. Be sure to check both legal and non-legal books and periodicals, as well as both online and printed sources. If you decide to enlist the aid of an NDE in developing your submission, he or she will be available to help with your Statement of Originality.

For a tutorial on preemption checking, see the following website:
http://library.law.yale.edu/research/preemption-checking.

Even beyond the acceptance process, every Note author is expected to stand behind his or her Note as original and accurate. If it is discovered after acceptance that the Note does not meet these standards, the piece will not be published.

**Resubmission Memorandum**

All authors who are resubmitting Notes they submitted previously must include with their Note submission materials the following: (a) a copy of the Response Memorandum they received from
the Notes Committee (this includes Revise & Resubmit letters from prior volumes) and (b) a Resubmission Memorandum. The Resubmission Memorandum should describe how the Note has changed since the prior submission, and why these changes have improved or strengthened the Note. A page or so should suffice.

**Submitting Your Note**

Volume 124 of the *Journal* will be accepting Notes for all eight of its issues; each issue will likely contain between one and three Notes.

The *Yale Law Journal* accepts student Note submissions only through our website, [http://ylj.yalelawjournal.org/authors/index.html](http://ylj.yalelawjournal.org/authors/index.html). Students having difficulty with the submission process should email Managing Editor Sopen Shah with questions, but should make sure to contact her at least 24 hours before the submission deadline.

To submit on our website, go to [http://ylj.yalelawjournal.org/authors/index.html](http://ylj.yalelawjournal.org/authors/index.html) and register for an account. Once your account has been created, log in and click on the “Submit Work” hyperlink; after that, check the “Student Note” bubble and click on “Continue.” Follow the instructions on that screen to submit all required documents. Submission materials must include the following and be uploaded into the appropriate fields on our website in Microsoft Word format:

1. **Submission field.** You must upload the submission, without your name on it, into this field. The document must include a **Table of Contents** and a **Cover Page**. The Cover Page should include:
   a. The last four digits of your Social Security Number (in the upper-right hand corner);
   b. The title of your piece (in the upper-left hand corner);
   c. The **word count** (including footnotes);
   d. An abstract that does not exceed 100 words; and
   e. Whether you submitted this particular Note before.

2. **Statement of Originality field.** You must upload your Statement of Originality, without your name on it, into this field.

3. **Submissions Form field.** You must upload your Submission Form into this field. The Submission Form will **only be accessible** by Managing Editor Sopen Shah, who alone will know the identity of any author whose submission is not accepted. The rest of the information requested in the memorandum will be used for data collection purposes only. A blank Submissions Form is available at [http://www.yalelawjournal.org/student-submissions](http://www.yalelawjournal.org/student-submissions).
4. **R&R 1, R&R 2, R&R 3 fields.** If you have previously submitted your Note, you must upload the original version of any previous Revise & Resubmit Letter(s) associated with your submission.

5. **Resubmit Memo 1, Resubmit Memo 2, Resubmit Memo 3 fields.** If you have previously submitted your Note, you must upload a Resubmission Memorandum for each Revise and Resubmit Letter.

6. **Note:** We ask that those submitting pieces with empirical work also submit their datasets and any coding that they have used. We strongly prefer data submitted as a .DO file, but we will accept other file types compatible with STATA 9 or Word document files as well. Please e-mail the file(s) to Managing Editor Sopen Shah.

Please note that the Notes Committee will not review submissions that depart from any of the submissions guidelines contained in this memo.

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We very much look forward to receiving and reading your submissions. Please feel free to contact Managing Editor Sopen Shah if you have any questions.

Best wishes,

**The Yale Law Journal Volume 124 Notes Committee** (Meng Jia Yang, Sam Adriance, Marguerite Colson, Charles Dameron, Christopher Milione, Robert Nightingale, Devon Porter, Conrad Scott, Julie Veroff, and Rachel Bayefsky)
This Note discusses the legal obstacles to asylum applications by women fleeing severe
domestic violence. As described in Part II(B) of the paper, this type of asylum claim has a long
and tortured history over the past 20 years. The Note questions whether recent developments —
specifically, DHS’s willingness to support some asylum applications by domestic violence
victims in Immigration Court — will actually lead to greater consistency in the adjudication of
such claims. I outline a series of doctrinal flaws in the DHS position and suggest that those flaws
are contributing to inconsistent adjudications that jeopardize the safety of women who come to
the U.S. seeking refuge from domestic violence. I then offer a new proposal for a regulatory
reform analogous to the 1996 statutory reform allowing asylum claims based on avoidance of
forcible population control policies (namely, China’s one-child policy) and describe the
regulatory hurdles that such a reform would have to overcome.

While there is an existing literature on the general topic of women and asylum, the
rapidly changing nature of the law in this field has rendered most accounts of domestic violence
asylum largely outdated. In particular, two changes that post-date these accounts have had a
significant impact on the law and form the starting point for this Note. The first is DHS’s brief in
*Matter of L-R*,¹ which endorsed the basic framework for domestic violence asylum claims
offered by earlier scholarly accounts. The second is the BIA’s redefinition of “particular social
group” through decisions in 2006 and 2008,² which cast doubt on the doctrinal soundness of that
framework.

A few scholarly commentaries were written *after* these significant changes, but their
reform proposals do not go far enough towards ameliorating the effect of adjudicator bias against
domestic violence claims and formalizing protection for domestic violence victims. This Note is
the first to analyze the doctrinal and practical flaws of the 2009 DHS brief and argue that
regulation is needed to create a clearer, more coherent legal standard that satisfies U.S.
obligations under the Refugee Convention. The Note goes on to offer a novel solution to the
problem of domestic violence asylum that would resolve aspects of the asylum standard as a
matter of law for domestic violence claims while still allowing adjudicators to make independent
decisions about individual asylum applications.

The first section of the Note draws on three distinct bodies of scholarship to argue that
domestic violence asylum is entirely consonant with the broad aims of asylum and refugee law.
One group of writings is the product of feminist historians and theorists writing generally about

¹ Department of Homeland Security’s Supplemental Brief, *In the Matter of L-R*- (B.I.A. April 13,
2009), available at
defined boundaries).
the causes of domestic violence. The second group of articles connects domestic violence to international human rights norms and a state’s obligations under human rights law. The third group consists of sociological studies of the prevalence and nature of domestic violence, most notably the World Health Organization’s groundbreaking 2005 multicountry comparative study of domestic violence.

The bulk of the Note focuses on the government’s position in \textit{L-R-}, its impact on asylum adjudications since 2009, and the path forward. The work of the Center for Gender & Refugee Studies at U.C. Hastings College of Law has been invaluable in understanding how domestic violence asylum claims are currently being handled in immigration courts. Karen Musalo, the head of CGRS, has a unique historical perspective on the current status of domestic violence asylum claims thanks to her more than twenty years as an advocate for immigrant women. Thanks to their wide network of asylum advocates, CGRS is able to collect otherwise-unpublished data on immigration judge decisions in gender asylum cases. Blaine Bookey’s recent analysis of that database includes a discussion decisions made after the important 2009 brief was released, and that information was crucial to understanding the limitations of the \textit{L-R-} framework as a comprehensive solution to the domestic violence asylum problem. Nina Rabin’s similar study of decisions by judges at the Eloy, Arizona, immigration court portrayed a group of adjudicators whose hostility to domestic violence asylum was unchanged by DHS’s about-face in \textit{L-R-}.

A small number of articles published after the \textit{L-R-} brief do offer possible solutions to the domestic violence asylum problems continuing after \textit{L-R-}, but none go far enough towards ameliorating the effect of adjudicator bias towards domestic violence claims. Marisa Silenzi Cianciarulo proposes that domestic violence claims should be treated as political opinion claims rather than particular social group claims. Barbara Barreno and Elsa M. Bullard both argue that the analysis should be shifted to focus on the government’s failure to act rather than the motives of the persecutor himself. However, requiring adjudicators to assess the motives behind the

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9 \textit{See Marisa Silenzi Cianciarulo, Batterers As Agents of the State: Challenging the Public/private Distinction in Intimate Partner Violence-Based Asylum Claims}, 35 \textit{Harv. J.L. & Gender} 117 (2012).

10 \textit{See Elsa M. Bullard, Insufficient Government Protection: The Inescapable Element in Domestic Violence Asylum Cases}, 95 \textit{Minn. L. Rev.} 1867 (2011); Barbara R. Barreno, \textit{In Search}
government’s failure to act will not resolve the inconsistencies that we now see in the outcomes of domestic violence asylum claims, which stem from a more fundamental disbelief by some adjudicators that asylum covers domestic violence claims at all. Finally, Natalie Rodriguez argues for regulations to refine the meaning of particular social group.\footnote{See Natalie Rodriguez, \textit{Give Us Your Weary But Not Your Battered}, 18 SW. J. INT’L L. 317 (2011).} While I agree with her that regulation is the right approach to solving the current problem, her proposal does not go far enough in making the law more favorable to this type of asylum claim. Among other differences, she would continue to allow adjudicators to determine that persecution occurred on the basis of gender as a matter of fact; I will argue that the historical and sociological evidence tying domestic violence to gender warrants drawing that connection as a matter of law.

Both the detailed account of the doctrinal problems with \textit{L-R} and the specific regulatory reform offered in the note are new. This note therefore makes a unique contribution to the literature on domestic violence asylum, and thus should not be regarded as preempted by the existing literature.