No. 06-1264

In The Supreme Court of the United States

ALBERTO R. GONZALES,
ATTORNEY GENERAL,

Petitioner,

v.

HONG YING GAO,

Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Second Circuit

BRIEF FOR THE RESPONDENT IN OPPOSITION

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QUESTION PRESENTED

Did the court of appeals err in holding, after the resolution of the issue by the immigration judge and summary affirmance by the Board of Immigration Appeals, that women sold into marriage (whether or not that marriage has yet taken place) and who live in a part of China where forced marriages are considered valid and enforceable constitute a "particular social group?"

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BRIEF FOR THE RESPONDENT IN OPPOSITION

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The opinion of the United States Court of Appeals for the Second Circuit (Pet. App. 1a-18a) is reported at 440 F.3d 62. The order of the Board of Immigration Appeals (BIA) (Pet. App. 19a) summarily affirming the decision of the Immigration Judge (IJ) and the oral decision of the IJ (Pet. App. 20a-26a) are unreported.

JURISDICTION

The Second Circuit entered its judgment on March 3, 2006. A petition for rehearing was denied on October 19, 2006. Pet. App. 27a-28a. The petition for a writ of certiorari (Petition) was filed on March 15, 2007. On April 12, 2007, the time within which the Respondent, Hong Ying Gao, was permitted to file a response to the petition for writ of certiorari was extended to and including June 15, 2007. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

SUMMARY OF THE OPPOSITION TO THE PETITION

In order to convince this Court to review and reverse the Second Circuit decision, the Petitioner manufactures a conflict between the decision of the court of appeals and *INS v. Ventura*, 537 U.S. 12 (2002) (*per curiam*), and *Gonzales v. Thomas*, 126 S. Ct. 1613 (2006) (*per curiam*). *Ventura* and *Thomas* stand for the principle that remand is ordinarily required by a court of appeals when the

agency has not addressed in the first instance an issue that the asylum statute places primarily in the agency's hands. *Ventura*, 537 U.S. at 16 (remand necessary because the agency had not considered changed circumstances); *Thomas*, 126 S.Ct. at 1615 (remand necessary because the agency considered a claim for asylum based upon social and political views, not based upon membership of a particular social group). In the Respondent's case, by contrast, the Second Circuit reviewed a legal issue – the definition of a particular social group within the meaning of the Immigration and Nationality Act (INA), 8 U.S.C. 1101(a)(42)(A) – that had been presented to and expressly considered by the agency. In addition, the Second Circuit remanded Gao's asylum petition to the BIA for further proceedings consistent with its rulings on this and other asylum requirements to make the ultimate asylum eligibility determination. The Second Circuit's exercise of authority is consistent with the statute governing judicial review (8 U.S.C. 1252), this Court's *Ventura* and *Thomas* decisions, other courts of appeals, and agency precedent. As the decision of the Second Circuit does not conflict with any decision of this Court or any other court of appeals, further review on the ground of a so-called "failure-to-remand" error (Pet. 23) is not warranted.

The central premise of the Petition is that there is some distinction between a non-consensual brokered marriage arrangement condoned by the local authorities, which was how Gao's counsel framed the request for asylum in her appeal to the BIA[1] and to the IJ below, and

[1] As the Petition acknowledges, Gao argued that she was persecuted on account of her membership in a particular social group composed of "'young women of Fuchow ethnicity, who have not [*sic*] had traditional

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"forced marriage," the term used by the Second Circuit. Based on that semantic distinction (not the record taken in its entirety, the legal arguments made by the Respondent to the IJ and BIA, or widely accepted definitions of "forced" versus "arranged" marriages), the Petitioner argues that (i) the formulation of the particular social group adopted by the Second Circuit was neither presented to nor addressed by the agency (*id.* at 2), and (ii) the decision will have the widespread effect of granting refugee status based upon membership in a protected social group to participants in sixty percent of the world's marriages, *id.* at 3-4. The Petitioner's contentions do not stand on their merits upon close examination.

First, the Second Circuit's formulation of Gao's particular social group – "women who have been sold into marriage (whether or not that marriage has yet taken place) and who live in a part of China where forced marriages are considered valid and enforceable" (Pet. App. 14a) – is soundly based in the administrative record and the arguments of the Respondent's counsel below. Gao's testimony, which the IJ found credible, and the corroborating documents duly admitted into the record compel the conclusion that Gao remains bound to a forced marriage, not a classic arranged marriage. The testimony also established that Gao was sold into marriage to a man found for her family by a go-between for little more than $2000, which sum her family used to pay its debts. The record supports the Second Circuit's conclusion that this

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marriage, arranged by parents and go-between, as practiced by that Fuchow ethnicity, and who oppose the arrangement and who do not have protection against it.' Gao BIA Br. 6-7 (Admin. R. 10-11)." Pet. 9.

arrangement is condoned in rural China. Accordingly, notwithstanding the Respondent's occasional use of the words "arranged" or "arrangement," the record of this case substantiates the Second Circuit's formulation of the arrangement as a "forced" marriage as that term is used by the very sources relied upon by the Petitioner. See 7 Department of State, *Foreign Affairs Manual* § 1459(c) (2005).

Second, the Petitioner's prediction that the decision will open the floodgates to millions of "aliens (women in arranged marriages) entitled to seek asylum" (Pet. 12) has not materialized. The few circuit courts, including the Second Circuit, that have been asked to consider the formulation of a particular social group in the *Gao* decision recognize that the decision rests on the unique facts of the case. The circuit courts continue to require applicants for asylum to prove each requirement for eligibility before the IJ or BIA on a case-by-case basis – before either remanding the matter to the agency for further consideration or denying review of the agency's determination. In sum, there is no pressing need for this Court to review, let alone reverse, the Second Circuit decision based upon an important new issue of law or an alleged effect on immigration law and policy.

As more fully discussed herein, no genuine or intolerable conflict between the Second Circuit decision and this Court's decisions in *Ventura* and *Thomas* or any other ground for granting a writ of certiorari under Supreme

Court Rule 10 exists.[2] Accordingly, the Petition should be denied.

STATEMENT OF FACTS

The undisputed facts are fully set forth in the decision of the Second Circuit. Pet. App. 2a-4a. The facts in the record are reviewed herein solely to address the Petitioner's contention that the Second Circuit "defied the record before the agency" and "framed the social group it identified in terms that had not been argued to, let alone considered by, the agency." Pet. 16.

On January 24, 2003, Gao appeared before the IJ and testified in support of her application.[3] The IJ found Gao to be a credible witness. Pet. App. 24a. Given the full evidentiary weight, the Respondent's testimony should be deemed sufficient to establish the following facts as

[2] As the late Chief Justice Rehnquist noted, "[t]he function of the Supreme Court is * * * to resolve conflicts of opinion on federal questions that have arisen among lower courts, to pass upon questions of wide import under the Constitution, laws, and treaties of the United States, and to exercise supervisory power over the lower federal courts." *Boag v. MacDougall*, 454 U.S. 364, 368 (1982) (Rehnquist, J., dissenting), *quoting* Address of Chief Justice Vinson before the American Bar Association, Sept. 7, 1949. None of the circumstances Chief Justice Rehnquist noted above are present here.

[3] Reference is made herein to (i) the January 24, 2003 hearing, which appears in the administrative record on pages 48-83; (ii) Gao's brief on appeal to the BIA, which appears in the administrative record on pages 5-17; and (iii) a letter to the IJ from Gao's mother, which appears in the administrative record on pages 104-105. These documents are attached hereto as Appendices A, B, and C, respectively, and are referred to herein as "App."

corroborated by supporting documents that were duly admitted into evidence without objection.

1. Respondent Was Sold Into A Forced Marriage.

In her testimony, Gao clearly and unequivocally framed her request for asylum as a woman who was being forced into marriage. In response to the IJ's first direct question regarding the basis for her asylum petition, "Why do you want to apply for political asylum?," Gao replied: "Because I was forced by the other people to get married. And then the other people wanted to sue me. So I came to the United States." App., *infra*, 13a.

The record in the *Gao* case compels the conclusion that Gao remains bound to a coerced, non-consensual marriage or forced marriage, and not merely an arranged marriage. The administrative record shows that the marriage agreement was entered into without Gao's consent from the beginning, *id.* at 14a ("At first I did not like too much about the engagement. But after being berated by my family members I stated [*sic*] to get along with the person"). Then, when the man to whom Gao was sold gambled and beat her because she refused to give him money, she opposed the marriage, *id.* at 15a ("I didn't want to marry this person"). See also *ibid.* ("And so I really didn't want the relationship to continue. I didn't want to marry."); *id.* at 16a ("So, he spoke to my family members and forced me to marry him."); *id.* at 17a (" . . . I really didn't want to marry him").

Once the agreement was reached between Gao's family and Chen Zhi (Zhi), the man who was introduced to the family by a go-between, Zhi paid Gao's family 18,880 RMB (approximately $2,250) for the right to marry Gao on

her twenty-first birthday. Pet. App. 22a. Gao's mother paid the broker 500 RMB for his services. *Ibid.*

2. The Practice Is Condoned In Rural China.

Gao testified that Zhi was introduced to her family members by a go-between, who went everywhere in the rural area "to match boys and girls." App., *infra*, 21a.

The record includes the 2001 State Department Country Reports on Human Rights Practices in China which, as the Second Circuit noted, indicated that there was "widespread domestic violence and trafficking in brides and prostitutes" (Pet. App. 3a-4a), fueled by gender imbalance, more prevalent in rural areas, and efforts to change the practice are actively resisted by village authorities. Pet. App. 4a; Bureau of Democracy, Human Rights, and Labor, U.S. Dep't of State, *China-Country Reports on Human Rights Practices-2001* (Mar. 4, 2002).

In addition, in Gao's brief on appeal to the BIA, Respondent referred to the fact that the government does not interfere with this kind of traditional arrangement. App., *infra*, 41a.

3. The Chinese Government Would Not Protect Gao.

When Gao was asked whether she ever went to the police or authorities to ask for help, she answered simply "I did not because I dare not." App., *infra*, 25a. Gao's belief that she would not be protected by the Chinese government was based partly on the fact that the government does not interfere with this kind of arrangement (*id.* at

41a) and partly on the fact that Zhi's paternal uncle was a prominent figure and an official in the local government.

Zhi threatened that if the Respondent refused to marry him, his uncle, a powerful local official, would sue her family. *Id.* at 17a; 22a-23a. The corroborating letter to the IJ from Gao's mother stated that Zhi threatened that he would use his powerful and rich uncle, who was an official in the government, to arrest her daughter. *Id.* at 46a-47a.

The questioning of Gao at the January 24, 2003 hearing and the IJ's resulting oral decision reflect an improper personal or cultural predisposition on the part of both the IJ and counsel for the agency.[4] Counsel for the

[4] Notwithstanding the agency's substantial expertise in certain immigration matters, a number of courts have vacated factual findings and legal conclusions influenced by impermissible factors like cultural bias, personal beliefs and ideas or unfamiliarity with the applicant's country's legal, political, religious or social system. See, *e.g.*, *Jiang v. Gonzales*, 2007 WL 1394551, at *2-3 (7th Cir. May 14, 2007) (overturning IJ's adverse credibility determination where IJ impermissibly relied on "personal beliefs" and "perceived common knowledge" in concluding that refugee's alleged "rudimentary" knowledge of Christianity denoted refugee was not a true believer); *Kantoni v. Gonzales*, 461 F.3d 894, 897 (7th Cir. 2006) (vacating decision of IJ where IJ found otherwise credible asylum seeker's claims without merit based upon IJ's uninformed beliefs about political culture in asylum seeker's home country: "[i]f immigration judges want to base their findings on insights into the political or military or social culture of the asylum seeker's country . . . they must indicate a knowledge of the culture."); *Zhang v. Bureau of Citizenship & Immigration Servs.*, 201 Fed. Appx. 60, 64 (2d Cir. 2006) (finding IJ's findings of fact erroneous where IJ dismissed petitioners' explanation regarding apparently conflicting documentation simply because such explanation conflicted with IJ's personal experience); *Iao v. Gonzales*, 400 F.3d 530, 533 (7th Cir. 2005) (vacating IJ's decision as "unreasoned," noting "[a] lack of familiarity with relevant foreign cultures" is a "disturbing feature" that "bulk large in the immigration cases that we are seeing"); *Yi-Tu Lian v. Ashcroft*, 379 F.3d 457, 459

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agency, for example, referred to Zhi no fewer than ten times as Gao's "boyfriend" until he corrected himself and asked for the name of the man that Gao's mother arranged for her to marry. App., *infra*, 28a. Notwithstanding counsel's correction, the IJ continued to refer to Zhi as Gao's "boyfriend" in her decision. Pet. App. 25a. The agency representative also sought documentary evidence of the arrangement – the marriage agreement and the transfer of money, although it was clear from Respondent's answers that such documentation would not and does not exist in that region. App., *infra*, 21a. Finally, both the IJ and the agency described the facts of the terms familiar in the United States as a legal dispute over a broken contract or financial arrangement. See Pet. App. 25a; App., *infra*, 37a ("[Gao's] main concern in her testimony was that the family was going to sue because of the financial arrangement, which is a civil remedy open to the family because they didn't follow through with this arrangement."). In sum, the agency's views on the relationships of the parties, the nature of the arrangement, and remedies available

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(7th Cir. 2004) (rebuking immigration judge for making erroneous and conclusory pronouncements of Chinese law where immigration judge demonstrated obvious lack of knowledge thereof, noting that "[o]ur immigration judges are, or at least ought to be, knowledgeable about foreign countries – at the very least they should know how to find the answers to elementary questions of foreign law."); *Barapind v. Rogers*, 1997 WL 267881, at *3 (9th Cir. May 15, 1997) (finding that inferences based on nothing other than IJ's own cultural biases constituted a "string of zeros" and was unsupported by substantial evidence). *See also Orantes-Hernandez v. Meese*, 685 F. Supp. 1488, 1496 (C.D. Cal. 1988) (permanently enjoining certain INS policies, finding that "[t]he impressions of INS agents and officials that Salvadorans come to the United States solely for economic gain reflect a lack of sensitivity and understanding and derive from ignorance on the part of INS agents as to the complex motivations and situations of those who have fled El Salvador.").

explain the conversion of the history of a young woman in rural China, sold into an abusive forced marriage, into a garden variety dispute over money between two families.

ARGUMENT

1. The Second Circuit Decision Is A Valid Exercise Of The Circuit Courts' Statutory Mandate.

Congress authorized direct review of questions of law in final agency determinations by the circuit courts. 8 U.S.C. 1252. The standard of review universally applied by the circuit courts with respect to legal conclusions, application of law to the facts and mixed questions of law and fact by the agency is *de novo* review. On review, in the proper exercise of judicial authority the circuit court may vacate the agency finding, provide the correct formulation of the legal principle or standard, and then remand to the BIA for further proceedings consistent with the decision. See, *e.g.*, *Himanje v. Gonzales*, 184 Fed. Appx. 105, 107 (2d Cir. 2006) (vacating the BIA's finding as erroneous that credible petitioner could not, as a matter of law, establish membership in "a particular social group," and remanding to the BIA for further proceedings consistent with order); *Niftaliev v. U.S. Attorney General*, ___ F.3d ___, 2007 WL 1514175, at *4-5 (11th Cir. May 25, 2007) (reversing the erroneous ruling of the BIA on the issue of past persecution, affording the petitioner the benefit of the rebuttable presumption described in 8 C.F.R. § 208.16, and remanding to the BIA for proceedings consistent with the opinion); *Gonzalez-Maldonado v. Gonzales*, ___ F.3d ___, 2007 WL 1518661, at *4 (5th Cir. May 25, 2007) (vacating determination that misstatements about residing in California running afoul of 8 U.S.C. 1101(f)(6) and remanding for

further consideration); *Boer-Sedano v. Gonzales*, 418 F.3d 1082 *passim* (9th Cir. 2005) (vacating the IJ's finding that petitioner's harm was not linked to his political opinion). The Second Circuit's review in the *Gao* case is consistent with the court's statutory authority and the circuit courts in scope of review and substantative law. The IJ's legal conclusion, summarily affirmed by the BIA, that Respondent failed to qualify as a member of the particular social group identified by the Respondent was properly the subject of judicial review by the Second Circuit in accordance with the standard practices and procedures followed by federal courts of appeals.

The Petitioner argues, however, that the Court of Appeals committed what it calls the "failure-to-remand" error (Pet. 23) based upon this Court's decisions *INS v. Ventura*, 537 U.S. 12 (2002) (*per curiam*), and *Gonzales v. Thomas*, 126 S. Ct. 1613 (2006) (*per curiam*). To fit the Second Circuit's decision into the holdings of *Ventura* and *Thomas* as a case where the circuit court decided an issue in the first instance, Petitioner claims that the IJ presented only the question of whether Gao was a member of a social group of women in "arranged" marriages, not a social group of Chinese women who have been sold into "forced" marriages. The entire argument rests on an artificial, purely semantic distinction between a non-consensual arranged marriage condoned by the local authorities, as Respondent's counsel framed the request for asylum in her appeal to the BIA and to the IJ below, and the term "forced" marriage adopted by the Second Circuit.

Petitioner cites a State Department publication to support its distinction between arranged and forced

marriages. But the definitions used by the State Department applied to the administrative record in this case actually demonstrate that Gao considered and described herself to the IJ as a victim of a forced marriage. The State Department in its *Foreign Affairs Manual* (Pet. 20) defines "arranged marriage" as one in which "the families of both spouses take a leading role in arranging the marriage but the choice whether to accept the arrangement remains with the individuals." 7 Department of State, *Foreign Affairs Manual* § 1459(b) (2005). In contrast, the State Department defines "forced marriage" as one in which "at least one party does not consent or is unable to give informed consent to the marriage, and some element of duress is generally present." *Id.* at § 1459(c).[5] These widely adopted definitions rebut the Petitioner's position here that the issue of whether (i) Gao fell into a particular social group was neither squarely presented to the IJ nor considered by it, and (ii) the impending marriage in the *Gao* case was a classic arranged marriage as opposed to the forced marriage recognized by the Second Circuit.

In sum, the Petition does not present a significant legal question or error warranting review by this Court.

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[5] The other source cited by the Petitioner focuses on the distinction between marriages arranged for the sole purpose of establishing asylum and forced marriages, not the difference between traditional arranged marriage and forced marriage. See Ratna Kapur, *Travel Plans: Border Crossings and the Rights of Transnational Migrants*, 18 Harv. Hum. Rts. J. 107, 123 (2005).

2. Petitioner Overstates The Scope And Import Of The Decision In This Case.

The Petitioner's contention that the Second Circuit decision must be reversed because of its far reaching implications (Pet. 3) also depends on the incorrect assumption that the Second Circuit was considering a classic arranged marriage, not a forced marriage. As a result, the Petitioner's prediction of the effect is a gross overstatement of both the scope and import of the *Gao* decision.

First, the definition itself – "women who have been sold into marriage (whether or not that marriage has yet taken place) and who live in a part of China where forced marriages are considered valid and enforceable" – does not by its terms apply to arranged marriages throughout the world as the Petitioner implies.[6] Second, the Second Circuit itself expressly limited the scope of its definition of "particular social group" as follows:

> We note, additionally, that our definition of Gao's social group is tailored to the facts of this case

[6] The Second Circuit's formulation of the particular social group is in line with the formulation by the BIA of those groups it has determined to be cognizable as particular social groups within the meaning of the INA. See, *e.g.*, *In re V-T-S,* 21 I. & N. Dec. 792, 798 (BIA 1997) (Filipinos of mixed Filipino-Chinese ancestry); *In re Kasingu*, 21 I. & N. Dec. 357, 365 (BIA 1996) (young women of the Tchamba-Kunsuntu tribe of northern Togo who have not been subjected to female genital mutilation, and who oppose the practice); *In re H-*, 21 I. & N. Dec. 337, 343 (BIA 1996) (Marchan subclan of Somalis); *In re Toboso-Alfonso*, 20 I. & N. Dec. 819 (BIA 1990) (homosexuals in Cuba); *In re Fuentes*, 19 I. & N. Dec. 658 (BIA 1988) (former member of the national police of El Salvador). The refugee in each group has common immutable or fundamental characteristics – gender, kinship, sexual preference, or past experience, which is shared with the members of the group and recognizable within a defined community.

> and does not reflect any outer limit of cognizable social groups. We do not here reach, for example, whether young, unmarried women in rural China comprise a "particular social group" under asylum law such that, if they have a well founded fear of being forced into marriage, they are eligible for asylum.

Pet. App. 14a n.6.

Third, Petitioner's policy argument depends upon the assumption that the particular social group determination is the only legal and factual issue standing between applicants and asylum status. However, applicants must also establish that they (i) have been, or face a well-founded fear of (ii) being subjected to harm amounting to persecution (iii) "on account of" one or more of the five statutory grounds. These additional requirements (which encompass numerous subsidiary issues) in each specific application serve to restrict asylum eligibility to a narrow subset of all individuals who can claim they are described by or fall within a protected group. *Li Juan Wang v. United States AG*, 2007 WL 870376, at *3 (2d Cir. March 22, 2007) ("An asylum applicant must show not only that she was a member of a particular social group or that her case falls within one of the other enumerated protected grounds; the 'applicant must also show, through direct or circumstantial evidence, that the persecutor's motive to persecute arises from' the protected ground.") (citations omitted); *Fatin v. INS*, 12 F.3d 1233, 1240 (3d Cir. 1993) (although Iranian women who find restrictive laws against women so abhorrent they refuse to conform may constitute a cognizable social group under asylum law, applicant must satisfy three elements in order to qualify for withholding of deportation or asylum including the identity of

the group, membership in the group and persecution or a well-founded fear of persecution based on that membership); see also *In re Toboso-Alfonso*, 20 I. & N. Dec. 819, 822 (BIA 1990) (holding that recognizing a protected social group of homosexuals in Cuba was not tantamount to awarding relief to all members of that group because each individual must satisfy additional elements of the asylum statute). In the *Gao* case, as in the cases cited above, the Second Circuit remanded multiple dispositive issues for consideration to the BIA, each of which must be resolved in Gao's favor in order for her to be granted asylum or withholding of removal.

Fourth, both the Second Circuit and other circuit courts have denied review of asylum petitions based on membership in the particular social group defined in the *Gao* case for a variety of reasons including the facts of each such case, credibility issues, and asylum considerations other than membership in the particular social group. *Chen v. Gonzales*, 2007 WL 956915, at *2 (7th Cir. March 29, 2007) ("Chen cannot belong to the social group defined in *Gao*, which explicitly limited its social-group definition to the facts of the case, because she was not sold into marriage. But even if we were to assume the existence of a social group of the sort that Chen proposes, and if we were further to assume that Chen belongs to such a group, she would still be ineligible for asylum because she cannot show a well-founded fear that she will be singled out for persecution on that basis in the future"); *Chen v. U.S. Dep't of Justice*, 2007 WL 631748, at *1 (2d Cir. February 26, 2007) (court need not consider petitioner's claim that he would endure hardships as a result of his refusal to enter into an arranged marriage with a village cadre's daughter, which could have been considered one of persecution based on membership in a particular social group based upon *Gao*, because IJ's adverse credibility

finding relating to this issue was supported by substantial evidence); *Hua Lin v. Gonzales*, 205 Fed. Appx. 879, 879 (2d Cir. 2006) (alien's claim that she was sold into a forced marriage was administratively unexhausted and waived).

Finally, Petitioner's suggestion that size of category of potentially eligible members should warrant denial of asylum applications has been rejected by the agency charged with administering the statute. The INS directly addressed the concern that particular social groups would encompass numerically large categories of individuals. A December 9, 1993, legal opinion of the Office of the INS General Counsel provided that:

> The fact that clans may be large, that almost all members of Somali society can claim some clan membership, and that inter-clan conflict is prevalent in Somalia, should not create undue concern that virtually all Somalis would qualify for refugee status. Any applicant for refugee status claiming membership in a particular social group must establish he or she has been persecuted, or may be persecuted, on account of that membership. Thus, while a Somali clan appears to meet the definitional criteria for a particular social group, this is merely the beginning of the inquiry into whether an individual applicant can establish refugee status.

U.S. Dep't of Justice, Immigration and Naturalization Service, Office of the General Counsel, Op. No. 93-91 (Dec. 9, 1993), *available at* 1993 WL 1504038. See also United Nations High Commissioner for Refugees, *Guidelines on International Protection: "Membership of a particular social group" within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, ¶ 18, U.N. Doc. HCR/GIP/02/02 (May 7, 2002):

> The size of the purported social group is not a relevant criterion in determining whether a particular social group exists within the meaning of Article 1A(2). This is true as well for cases arising under the other Convention grounds. For example, States may seek to suppress religious or political ideologies that are widely shared among members of a particular society – perhaps even by a majority of the population; the fact that large numbers of persons risk persecution cannot be a ground for refusing to extend international protection where it is otherwise appropriate.

In sum, there is no pressing need for this Court to review, let alone reverse, the Second Circuit decision based upon an alleged far-reaching effect on immigration law and policy.

CONCLUSION

Based upon the above, the petition for a writ of certiorari should be denied.

Respectfully submitted,

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JUNE 13, 2007