[NORTH] AMERICAN HORROR STORY: ASYLUM
AN ANALYSIS OF RECENT RECONSIDERATIONS FOR BATTERED WOMEN AS A PARTICULAR SOCIAL GROUP

Kati Massey*

Abstract: Asylum has been a long-standing tradition in European countries, as well as the United States, that serves as a streamlining technique to assist refugees displaced from their country of origin because of persecution. With origins reaching back to such dark times in our world’s history as the Holocaust, asylum protections serve to create stability for those who are pushed from their homes, figuratively and literally, on account of their race, religion, nationality, political opinion, or membership of a “particular social group.”

While the permeability of the country’s borders has fluctuated in recent years, the most recent construction, in terms of asylum, has created flow. The Board of Immigration Appeals (BIA) and U.S. Circuit Courts have decided cases in ways which construe battered women as members of a particular social group. This precedent, in recent months, has been challenged by Former Attorney General Sessions. Sessions has condemned the notion that battered women constitute a particular social group and instead suggested they be denied asylum on such grounds.

This note analyzes Former Attorney General Sessions’ position on whether battered women constitute a particular social group and suggests that victims of domestic abuse should continue to fall under the “particular social group” category based on years of precedent, explicit definitions laid out by both BIA and U.S. Circuit Courts, and past memoranda issued to asylum officers stating that domestic abuse victims do constitute a particular social group. This note also discusses the social and moral implications of turning away battered women when they are on the verge of death or serious harm.

I. INTRODUCTION

Immigration. Refugees. Asylum. Major news outlets have these buzzwords on constant rotation. But what does any of it mean? And why should it matter to those who are not seeking entry into the United States? This note examines the

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* Kati Massey
2. Id. at 529.
3. Id.
history and evolution of asylum in the United States and analyzes the current controversy surrounding battered women as an admissible group for its protections.

To establish an asylum claim, the applicant must first "prove either past persecution or a well-founded fear of future persecution." To do this, "second, the persecution must have been or is expected to be committed by a proper source: either the government or forces that the government is unwilling or unable to control." Lastly, the past or future persecution must have been or is expected to be motivated by one of the five protected grounds as a 'central reason.' The protected grounds include race, religion, nationality, political opinion, and membership in a particular social group.

A. History of Asylum

The underlying parameters constructing modern asylum go back decades. After World War II, there was a flood of refugees fleeing the Holocaust and political oppression in Eastern Europe. In response, European diplomats met in Geneva in an attempt to streamline the placement process for the millions of displaced refugees who were not able to return to their home countries. Those present at what came to be known as the 1951 United Nations Convention agreed that protections were necessary for individuals experiencing persecution on account of race, religion, nationality, or political opinion. While these characteristics were a great start, the present-diplomats decided to include a broader category, something to encompass those who did not fall neatly into one of the aforementioned characteristics, but instead were persecuted based on circumstances outside the perfectly labeled boxes. "Particular social group" was added to the list of admissible grounds for asylum. With that addition came decades worth of uncertainty concerning its interpretation.

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7. Id. at 529.
8. Wald, supra note 1, at 532.
12. Id.
13. Id.
14. Id.
15. Id.
B. U.S. Adoption of Asylum

The United States later followed suit, adopting the framework and definitions laid out in Geneva, in the Refugee Act of 1980 (The Act). The Act expanded the definition of refugee from the United States' previous guidance, the Immigration and Nationality Act of 1965, which included only those individuals fleeing natural disaster or Communist areas. The Act included language that resembled the ideas discussed in Geneva; a refugee, by definition, became:

any person who is outside his or her country of residence or nationality, or without nationality, and 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.

While the Act’s revisions greatly broadened the definition of refugee, they did nothing to address the uncertainties surrounding the interpretation of the “particular social group” category.

In recent years, the courts and governmental agencies overseeing immigration have begun fleshing out the intentions of the 1951 diplomats, and subsequently, the Carter administration in what constitutes “particular social groups.” For example, gender, once strictly excluded as a viable particular social group, became admissible under certain circumstances. One such circumstance being the case of battered women who reside in countries where their government or police are not able to properly prevent the abuse.

II. ASYLUM REQUIREMENTS

The ways in which asylum may be granted are detailed in a variety of documents. Federal Codes provide the guidelines used for those seeking and enforcing asylum. However, there are numerous terms laid out in the Federal Codes that require additional supplementation to accurately interpret their meaning. This supplementation comes in the form of Immigration Court documents, Immigration Board correspondence, and case law.

16. Id.
19. Rose, supra note 11.
21. Id.
23. Id.
A. Persecution

With the Geneva framework as a blueprint, United States’ legislators further developed Federal Code, establishing the specific requirements for those seeking asylum. The result was a three-part test that individuals must meet to qualify for asylum protections. First, applicants must prove either past persecution or a well-founded fear of future persecution. The term “persecution” is not expressly defined in the statute, regulations, or by the Board of Immigration Appeals (BIA), an authority on immigration. According to pertinent case law, persecution “has come to mean physical or emotional suffering or harm inflicted ‘without legitimate reason.’” The meaning of, “well-founded fear” of persecution, also developed through case law. The Supreme Court held that ‘well-founded fear’ of persecution is a lower standard than ‘clear probability’ of persecution. The Court, however, acknowledged that the phrase is inherently ambiguous and that the standard should be further clarified on a case-by-case basis.

B. Proper Source

“Second, the persecution must have been or is expected to be committed by a proper source: either the government or forces that the government is unwilling or unable to control. Third, the past or future persecution must have been or is expected to be motivated by one of the five protected grounds as a ‘central reason.’” The protected grounds include race, religion, nationality, political opinion, and membership in a particular social group. Because “particular social group” is not statutorily-defined, there is some debate as to its meaning. “The definition has solidified into a three-part test: to form the basis of an asylum claim, the social group must be: (1) ‘composed of members who share a common immutable characteristic,’ (2) ‘socially distinct,’ and (3) defined with particularity.”

Using ejusdem generis, the doctrine governing court interpretation when general words are listed with specific words, the BIA decided courts should interpret the general words to be consistent with the specific words. Using this
doctrine, the finding that race, religion, nationality, and political opinion all describe immutable characteristics, it follows that membership in a particular social group must also be an immutable characteristic.  

Second, the particular social group must be "socially distinct." This second element was originally "social visibility"; this distinction required that the civilization in which the prospective group interacted recognize the individuals as members of the group. The BIA has held that such groups as "Filipinos of mixed Filipino-Chinese ancestry, former landowners, and people recorded as homosexual by the government" meet this standard and are "sufficiently visible to others in society to constitute a particular social group." The BIA also held that to meet the requirements of "socially distinct", an asylum applicant must show that the civilization with which the applicant interacts commonly "perceives, considers, or recognizes persons sharing the particular characteristic to be a group." This, however, does not demand that the surrounding-civilization be able to identify which specific individuals belong to the group.

The BIA clarified this requirement by reaffirming that homosexuals as well as "women who oppose female genital mutilation", constitute social groups even though establishing which individuals fit into these categories is not readily apparent and would take effort to determine their placement in the group. Further, a social group must be perceived, considered, and recognized as such by the civilization in which the group interacts, and not solely by "the perception of an applicant's persecutors," because "a social group may not be defined based solely on the fact that the members have been targeted or harmed" (i.e., persecuted).

C. Particularity

Third, and finally, social groups must be "particular." The BIA defines particularity as "whether the proposed group can accurately be described in a manner sufficiently distinct that the group would be recognized, in the society in question, as a discrete class of persons." The group must be "discrete, have definable boundaries," and may not be diffuse or amorphous. The BIA and courts may use the size of the proposed social group as an indicator as to whether

37. Wald, supra note 1, at 533-34.
38. Id. at 534-35.
39. Id. at 535.
40. Id. at 534.
42. Id.
43. Id. at 218.
44. Wald, supra note 1, at 534.
46. Id.
it is sufficiently distinct. Because “particularity” is analyzed as a function of the society “out of which the claim for asylum arises,” the terms used in describing the group must have “commonly accepted definitions” within that society.

In Matter of S-E-G-, the BIA held that an asylum seeker “failed to demonstrate membership in a particular social group because he could not concretely describe the group without resorting to terms about which reasonable minds could differ.” In particular, “male children who lack stable families and meaningful adult protection, who are from middle and low income classes, who live in the territories controlled by the MS-13 gang, and who refuse recruitment.” The BIA also held that another asylum seeker in Matter of S-E-G-belonged to an amorphous social group that was not able to be defined with sufficient particularity: “family members of Salvadoran youth who have been subjected to recruitment efforts by MS-13 and who have rejected or resisted membership in the gang.” Here, the BIA found the use of “family member” to be overbroad and amorphous because it was not clear whether the term could include more distant relatives, such as mothers, siblings, aunts and uncles, nieces and nephews, or cousins.

III. BATTERED WOMEN AS AN ESTABLISHED “PARTICULAR SOCIAL GROUP”

In recent years, “particular social group” has been expanded to include battered women. The United States lacked any policy regarding domestic violence as a basis for claiming asylum until 1995, when the Immigration and Naturalization Service (INS) issued guidelines addressing the issue of gender violence. The guidelines were directed towards the INS Asylum Officer Corps and attempted to improve “uniformity and consistency in procedures and decisions.” The guidelines stated that although gender alone could not constitute membership in a particular social group, women who have experienced domestic violence might have an asylum claim based on their experiences. Although these guidelines were a great start, they were not binding on the BIA or any court.

47. Id.
50. Id.
51. Id.
52. Id.
54. Id.
55. Id.
56. Id.
This has been detailed explicitly in case law, as well as correspondence of governments and boards. The recent expansion of “particular social group” to include battered women was not a blanket, overarching revision. There were particular circumstances tied to the successful petition of women who have been the victims of domestic abuse. One such circumstance concerns the applicant’s government’s involvement; it either must not have had the power or ability to do anything about the persecution or simply did not care to do anything about it. Another circumstance that can lead to women’s successful asylum petitions includes persecution involving a particular kind of harm—like rape and other sexual violence—that either befalls women more often than men or is unique to women.

A. Circuit Courts

Some Circuits’ decisions specifically adhere to interpretations of “particular social group” that would include battered women. The Ninth Circuit has a similar approach as that used by BIA, requiring a “particular social group” to involve immutable characteristics, and the Third Circuit further confirmed that the immutable characteristic may include gender.

The Ninth Circuit, in Mohammed v. Gonzalez, held that women of a particular nationality, “or even in some circumstances females in general,” may constitute a social group. The court acknowledged that the persecution at issue, female genital mutilation, was not clan-specific and was deeply embedded in Somalian culture and performed on nearly ninety-eight percent of all females. The agency could then categorize the particular social group as “Somalian females.” The court describes this decision to allow women—especially those in the face of drastic persecution involving physical harm—as “simply a logical application of our law.” The court goes so far as to state that few would even argue that “sex or gender, combined with clan membership or nationality, is not an ‘innate characteristic,’ ‘fundamental to individual identity.’”

The Third Circuit held similarly in Fatin v. INS, that persecution based on gender may constitute persecution based on membership in a particular social group. The court discusses that the particular social group petitioner identified: Iranian women who refuse to conform to the government’s gender-specific laws

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58. Id.
59. Coven, supra note 54.
60. Id.
61. Mohammed v. Gonzalez, 400 F.3d 785, 797 (9th Cir. 2005).
63. Gonzalez, 400 F.3d at 797.
64. Id.
65. Id.
66. Id.
67. INS, 12 F.3d at 1241.
and social norms, may well satisfy the BIA’s definition of that concept.\textsuperscript{68} This is especially so because “the routine penalty for noncompliance is ‘74 lashes, a year’s imprisonment, and in many cases brutal rapes and death.’”\textsuperscript{69}

B. BIA Decisions

Federal Code supplements include court and governmental board’s correspondence and guidelines as well as case law.\textsuperscript{70} Most asylum cases come down to the interpretation of the term “particular social group.”\textsuperscript{71} The BIA has defined members of a “particular social group” as those with a “common, immutable characteristic” that they cannot, or should not be required to, change.\textsuperscript{72} As previously mentioned, the BIA determined that to qualify as a particular social group, the characteristic in question requires immutability.

On August 26, 2014, the BIA decided Matter of A-R-C-G-, which, for the first time, addressed “the question of granting asylum to domestic violence victims on the basis that domestic violence is a form of persecution.”\textsuperscript{73} The BIA found the asylum-seekers, a Guatemalan woman and her three minor children who had illegally entered the United States to escape an abusive husband, “were eligible for asylum based on past persecution or a well-founded fear of future persecution on account of their belonging to a ‘particular social group.’”\textsuperscript{74} The BIA agreed with the respondent’s claim that the “particular social group” in question: “married women in Guatemala who are unable to leave their relationship” was a valid group to establish a successful asylum claim because it contained immutable characteristics (i.e., gender and marital status), particularity (i.e., “the terms used to describe the group have commonly accepted definitions with Guatemalan society”), and social distinction.\textsuperscript{75}

The BIA distinguished this finding from past decisions which found proposed groups such as “Guatemalan women who have been involved intimately with Guatemalan male companions, who believe that women are to live under male domination” to be lacking.\textsuperscript{76} The latter did not meet the standard for “particular social group” because “the proffered social group was defined principally, if not exclusively, for purposes of the asylum case and that it was unclear whether anyone in Guatemala perceives this group to exist.”\textsuperscript{77}

\textsuperscript{68} Id.
\textsuperscript{69} Id.
\textsuperscript{70} Marsden, supra note 54.
\textsuperscript{71} Wald, supra note 1, at 532.
\textsuperscript{72} Id.
\textsuperscript{73} Id. at 529.
\textsuperscript{74} Id.
\textsuperscript{76} Id. at 391.
\textsuperscript{77} Id.
Matter of A-R-C-G- "expanded the particular social group category for asylum eligibility" and opened the door for certain victims of domestic violence to qualify for asylum. This case represented progress towards greater protection for domestic violence victims but did not completely eliminate the uncertainty and confusion surrounding domestic violence as grounds for asylum. One of Former Attorney General Jeff Sessions’ first orders of business, however, was to overturn Matter of A-R-C-G-.  

IV. RECONSIDERATION OF BATTERED WOMEN AS RECOGNIZED PARTICULAR SOCIAL GROUPS

Although battered women had made progress in their efforts to obtain asylum protections, not everyone believed that they should be entitled to such protections and have made great strides to remove such protections. Among those who hold this view is Former Attorney General Jeff Sessions, who had direct oversight of the Immigration Courts and who single-handedly attempted to rollback the progress of battered spouses. Part of Sessions’ duties as Former Attorney General is to oversee the nation’s immigration courts. Through this role, he is able to intervene in individual cases, thereby setting precedent that can affect all asylum-seekers.

A. Former Attorney General Sessions’ View of Asylum

Former Attorney General Sessions believes that battered women do not fall into a particular social group because, although they are in difficult situations, he does not believe the categories for asylum were intended to include such broad characterizations. Sessions argues that victims of domestic abuse should not fall within these definitions and, therefore, should not be considered for asylum protections based solely on such grounds. He asserts that such a broad interpretation of “particular social group” goes against the intentions of the legislators who laid out the guidelines.

Former Attorney General Sessions believes that the drafters intended the group to include things more closely related to race, religion, and nationality, and

78. Wald, supra note 1, at 529.
79. id. at 529-30.
81. Rose, supra note 11.
82. id.
83. id.
86. Id.
87. Id.
that gender, or a group comprised of battered women, does not fall under that strict interpretation.\textsuperscript{88} Sessions' intervention is most notable in a case currently making its way through the Immigration Courts.\textsuperscript{89} A case in which the asylum-seeker, Ms. A.B., has already won on appeal.\textsuperscript{90}

**B. The Case of Contention**

Ms. A.B., as she has come to be known, fled El Salvador in 2014 and has been residing in the Carolinas while her asylum case proceeds.\textsuperscript{91} She came to the United States illegally when she finally managed to escape her now ex-husband's abusive grasp.\textsuperscript{92} Ms. AB suffered years of physical abuse from her ex-husband, who beat her with beer bottles, threatened her at gunpoint, and even raped her.\textsuperscript{93} On one occasion, when she was pregnant with her second child, he had her on the floor and was repeatedly kicking her while Ms. AB shielded her unborn baby, turning away from his forceful blow so that her back would endure the onslaught of force.\textsuperscript{94} She sought the assistance and protection of local law enforcement, but they did nothing.\textsuperscript{95} It is well established that this region of the world has widespread corruption in government and police on top of the nearly-accepted perception that there is little protection for women in El Salvador.\textsuperscript{96}

Before fleeing to the United States, she moved to another area of El Salvador in an attempt to leave her abusive husband.\textsuperscript{97} But again, he found her and raped her.\textsuperscript{98} Her only option for survival was to travel farther the next time, to a place where there is protection from men who beat their wives: America.\textsuperscript{99} Once there, she applied for asylum, exercising her right to legally start down the path towards citizenship.\textsuperscript{100} Her effort encountered its first obstacle when the Immigration Judge presiding over her case, V. Stuart Couch, rejected her claim because, while the abuse appeared criminal, he did not feel that it reached a level worthy of asylum.\textsuperscript{101}

\textsuperscript{88} Rose, \textit{supra} note 11.
\textsuperscript{89} Rose, \textit{supra} note 86.
\textsuperscript{90} Id.
\textsuperscript{91} Joel Rose. \textit{Sessions Intervenes In Salvadoran Woman's Asylum Case}. NPR (May 21, 2018, 5:00 AM), https://www.npr.org/2018/05/21/612941597/sessions-intervenes-in-salvadoran-womans-asylum-case.
\textsuperscript{92} Id.
\textsuperscript{93} Rose, \textit{supra} note 11.
\textsuperscript{94} Id.
\textsuperscript{95} Id.
\textsuperscript{96} Id.
\textsuperscript{97} Id.
\textsuperscript{98} Rose, \textit{supra} note 93.
\textsuperscript{99} Id.
\textsuperscript{100} Id.
\textsuperscript{101} Rose, \textit{supra} note 11.
Ms. A.B. refused to pack up and move back to a man who she feared would kill her.\textsuperscript{102} She appealed Judge Couch's decision to the Immigration Board of Appeals and won.\textsuperscript{103} Despite the successful appeal, Judge Couch still refused to grant Ms. A.B. asylum, and now, for reasons that are not clear, Former Attorney General Sessions decided to step in and oversee the case.\textsuperscript{104} Sessions does not believe that being a victim of private criminal activity—what he classifies the abuse afforded Ms. A.B.—constitutes a cognizable "particular social group" for purposes of an application for asylum or withholding of removal in the vast majority of cases.\textsuperscript{105} This finding reaches back to pre-A-R-C-G-\textemdash, reenlisting the argument that proffered classifications such as Ms. A.B.'s: "Guatemalan women who are unable to leave their domestic relationship where they have children in common" lack "sufficient social distinction" and therefore are not "cognizable as a distinct social group."\textsuperscript{106}

V. BATTERED WOMEN SHOULD REMAIN A "PARTICULAR SOCIAL GROUP" UNDER ASYLUM LAW

If the United Nations Diplomats, and subsequently the U.S. Congress, intended for only discreet groups like race and nationality to constitute particular social groups, as Sessions claims, the addition of the fifth ground for asylum would have been wholly unnecessary. There would have been no need to include the catch-all category, "particular social group," if every viable group were summed up in the other four grounds. If such grounds as race or religion were the only permissible options, and the only characteristics capable of signifying immutable characteristics, the drafters likely would have left it at that.

There is finally a trend toward defining "particular social groups" in a way that sheds light and creates some predictability concerning the types of groups that constitute particular social groups.\textsuperscript{107} Numerous cases, decided by both U.S. Circuit Courts as well as the BIA, provide precedent for battered women to constitute a particular social group under certain circumstances.\textsuperscript{108} To remove this distinction now will provide only more confusion in interpreting the statute. There are also social and moral cautions to removing protection for these women, namely, the threats of separation violence.\textsuperscript{109}

\textsuperscript{102} Id.
\textsuperscript{103} Id.
\textsuperscript{104} Id.
\textsuperscript{105} Matter of A-B-, 27 I. & N. Dec. at 335.
\textsuperscript{106} Id. at 336.
\textsuperscript{107} Wald, supra note 1, at 529-30.
\textsuperscript{108} See, e.g., Gonzalez, 400 F.3d 785; INS, 12 F.3d 1233.
\textsuperscript{109} Cianciarulo & David, supra note 4, at 341-42.
A. Precedent

Explicit definitions laid out by the BIA allow for battered women as a “particular social group.” The BIA has defined members of a “particular social group” as those with a “common, immutable characteristic” that they cannot, or should not be required to, change. In Matter of A-R-C-G-, the BIA expanded the particular social group category for asylum eligibility and opened the door for certain victims of domestic violence to qualify for asylum. After which, the BIA issued memoranda to asylum officers stating that domestic abuse victims do constitute a “particular social group.”

B. Separation Violence

When the battered woman leaves the relationship, she is “engaging in the ultimate challenge to her abuser’s power, authority, and control.” This action is, in effect, “pulling the trigger” on violence that may befall her, potentially inciting “an escalation of the violence, sometimes even leading to murder of the battered partner”. “Regardless of whether the abuser forces her to return or whether she returns on her own, the abuser now knows that she is capable of leaving him.” His goal then becomes punishing her for challenging his authority in an attempt to “ensure that such a challenge does not happen again.” Because of this separation violence, and the risk of violence and death upon the battered woman increasing dramatically, there is even more motivation to make that separation permanent (i.e. grant asylum to the victims).

This separation violence falls into the “Cycle of Violence” that occurs in domestic abuse relationships. This cycle includes three phases: tension-building, acute battering, and calm respite, and serves to demonstrate that those who abuse their partners do so in an attempt to remain dominant in the relationship while establishing complete control over the abused. This cycle is similarly seen in more traditional refugee cases, where a dictator or the like seeks to establish control over a citizen and dominate their every move. This similarity further correlates the lack of randomness in both attacks.

110. Wald, supra note 1, at 532.
111. Id.
112. Wald, supra note 1, at 529.
113. Coven, supra note 54.
114. Cianciarulo & David, supra note 4, at 342.
117. Id.
118. Buel, supra note 117.
119. Cianciarulo & David, supra note 4, at 345.
120. Id. at 346-48.
121. Id. at 343.
122. Id. at 344.
because domestic abuse occurs in the privacy of the individuals’ homes, while a dictator’s abuse occurs in public does not distinguish the two occurrences as driven by different motivations.123

Use of the separation violence theory in analyzing battered women as a particular social group proves fitful. It provides grounds to establish a new particular social group capable of withstanding defeat in the courts: “women who have left severely abusive relationships.”124 With an understanding of the psychology underlying domestic violence, as well as the societal underpinnings of the foreign governments in question, this category meets the standards of the test in Matter A-B- to establish particular social groups: “(1) membership in a group, which is composed of members who share a common immutable characteristic, is defined with particularity, and is socially distinct within the society in question; and (2) that membership in the group is a ventral reason for her persecution.”125

Feminist scholarship has furthered these ideas and categorized domestic violence not as “an isolated act between private actors, but rather as part of a broader societal conception of appropriate gender roles.”126 Renowned scholars in this field have discussed the “necessary role of violence and threat of violence in the perpetuation of patriarchic systems.”127 To remove safeguards from abusers who are arguably the most dangerous, because it is said to be committed in “private,” is illogical. If the goal of asylum is to provide refuge for those in need of such protections due to their—restricted—role in society or because of their government’s inability to provide such protection, battered women in circumstances similar to those discussed throughout this note should be among the top of the list.

**VI. CONCLUSION**

Immigration Courts, BIA, and related entities should continue to allow battered women to apply for asylum as particular social group members because there is precedent as to its relevance, and the social and moral implications of discontinuing that protection are vast. This note examined the history and evolution of modern asylum in the United States and analyzed the current controversy surrounding battered women as an admissible group for its protections.

To establish an asylum claim, the applicant first “must prove either past persecution or a well-founded fear of future persecution”.128 Second, the

123. *Id.*
124. *Id.* at 343.
126. *Wald, supra* note 1, at 532.
127. *Id.*
128. *Wald, supra* note 1, at 531.
persecution must have been or is expected to be committed by a proper source: either the government or forces that the government is unwilling or unable to control.\textsuperscript{129} Lastly, the past or future persecution must have been or is expected to be motivated by one of the five protected grounds as a “central reason.”\textsuperscript{130} The protected grounds include race, religion, nationality, political opinion, and membership in a particular social group.\textsuperscript{131}

Particular social groups, as a potential category for asylum-seekers, has been interpreted in different ways throughout the years. In recent years, courts and the immigration authorities have begun unpacking this difficult area of the statute and providing guidance as to ways in which the category should be interpreted.\textsuperscript{132} Definitions that encompass battered woman have been established, recognizing victims of domestic abuse as individuals persecuted as a result of their membership to a visible group of individuals with an immutable characteristic.\textsuperscript{133}

Recent efforts by Former Attorney General Sessions to roll back these developments create two main problems. First, precedent relied upon by immigration officials has now become less certain, which may lead to unpredictability in asylum cases.\textsuperscript{134} Second, refusing to recognize battered woman as a particular social group has moral and social implications. If uniformly-adopted, Sessions’ position will likely lead to increased violence toward past-victims, and potentially death, as a result of separation violence and the cycle of violence it entails.\textsuperscript{135} This threatens to undermine the protections asylum is intended to provide to vulnerable people worldwide.

\textsuperscript{129} Javaherian, supra note 5, at 428-29.
\textsuperscript{130} Id. at 529.
\textsuperscript{131} Wald, supra note 1, at 532.
\textsuperscript{133} Wald, supra note 1, at 529.
\textsuperscript{134} Id. at 529-30.
\textsuperscript{135} Cianciarulo & David, supra note 4, at 345.