



Domestic Violence and Gender-Based Asylum Claims after the Board of Immigration Appeals Decision in *Matter of A-R-C-G-*

New Board of Immigration Appeals decision recognizes domestic violence as the basis for asylum:

Recently, the Board of Immigration Appeals (BIA) issued an important decision that recognizes that women who are victims of domestic violence may be deemed a “member of a particular social group” which could be the basis of a successful asylum claim. The case, *Matter of A-R-C-G-*, could potentially help some of the Central American women and children who are fleeing domestic violence and arriving at the Southwest border.

Asylum in the United States

Asylum may be granted to a person arriving in the United States who has been persecuted or has a well-founded fear of being persecuted “on account of race, religion, nationality, membership in a particular social group, or political opinion,” and who is unwilling or unable to avail herself of her country.

*Why *Matter of A-R-C-G-* is different from previous cases*

Although many lawyers successfully argued that gender and gender-related groups, such as survivors of domestic violence, are “particular social groups” that could qualify for asylum, there had not been a clear precedent on the issue and there were inconsistent rulings in the courts. **Women seeking asylum due to domestic violence still face a difficult battle** given that very few asylum cases are granted. However, this case provides new hope that many women fleeing domestic violence in Central America can be successful in their asylum cases.

Matter of A-R-C-G- still requires individual assessments and evidence in each case

- **Matter of A-R-C-G- still requires that individual facts be assessed in each case:** The BIA’s recent decision in *Matter of A-R-C-G* provides new guidance for these cases. The ruling found that “married women in Guatemala who are unable to leave their relationship” can constitute a particular social group that forms the basis of a claim for asylum. However, the BIA also emphasized that whether a social group exists in any given case will depend on the facts and evidence in each individual case.
- **Criteria for membership in a “particular social group”:** An applicant seeking asylum based on his or her membership in a “particular social group” must 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.

*How are the families apprehended and detained at the border impacted by *Matter of A-R-C-G-*?*

Many women currently detained in remote new family detention facilities are asylum seekers escaping domestic violence. These women have little access to the legal information and legal counsel necessary to navigate complex U.S. asylum law. They are screened for a credible fear very quickly with little understanding the process, and in some cases denied credible fear despite having a potential claim to relief. They are also rushed through the legal process, without the opportunity for release on bond. Detention, the inability to access counsel, and expedited proceedings pose enormous challenges to preparing a successful asylum case that requires extensive evidence.