

# Sessions Says Domestic and Gang Violence Are Not Grounds for Asylum

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WASHINGTON — Attorney General Jeff Sessions on Monday made it all but impossible for asylum seekers to gain entry into the United States by citing fears of domestic abuse or gang violence, in a ruling that could have a broad effect on the flow of migrants from Central America.

Mr. Sessions's decision in a closely watched domestic violence case is the latest turn in a long-running debate over what constitutes a need for asylum. He reversed an immigration appeals court ruling that granted it to a Salvadoran woman who said she had been sexually, emotionally and physically abused by her husband.

Relatively few asylum seekers are granted permanent entry into the United States. In 2016, for every applicant who succeeded, more than 10 others also sought asylum, according to data from the Department of Homeland Security. But the process can take months or years, and tens of thousands of people live freely in the United States while their cases wend through the courts.

Mr. Sessions's decision overturns a precedent set during the Obama administration that allowed more women to claim credible fears of domestic abuse and will make it harder for such arguments to prevail in immigration courts. He said the Obama administration created "powerful incentives" for people to "come here illegally and claim a fear of return."

*[Asylum applicants are facing holdups in entering the United States. Read about it here.]*

Asylum claims have expanded too broadly to include victims of "private violence," like domestic violence or gangs, Mr. Sessions wrote in his ruling, which narrowed the type of asylum requests allowed. The number of people who told homeland security officials that they had a credible fear of persecution jumped to 94,000 in 2016 from 5,000 in 2009, he said in a speech earlier in the day in which he signaled he would restore "sound principles of asylum and longstanding principles of immigration law."

"The prototypical refugee flees her home country because the government has persecuted her," Mr. Sessions wrote in his ruling. Because immigration courts are housed under the Justice Department, not the judicial branch of government, he has the authority to overturn their decisions.

"An alien may suffer threats and violence in a foreign country for any number of reasons relating to

her social, economic, family or other personal circumstances,” he added. “Yet the asylum statute does not provide redress for all misfortune.”

His ruling drew immediate condemnation from immigrants’ rights groups. Some viewed it as a return to a time when domestic violence was considered a private matter, not the responsibility of the government to intervene, said Karen Musalo, a defense lawyer on the case who directs the Center for Gender and Refugee Studies at the University of California Hastings College of the Law.

“What this decision does is yank us all back to the Dark Ages of human rights and women’s human rights and the conceptualization of it,” she said.

President Trump has long insisted that violent gang members are using the immigration system to illegally infiltrate the United States and that illegal immigrants traveled by caravan to the southern border with Mexico recently to flood into the country.

Mr. Sessions’s ruling addressed those fears, but data does not support them. Since 2014, when Central Americans started surging into the United States, people seeking asylum from gang violence have only rarely succeeded. Those who were granted entry often argued their cases on multiple grounds.

The number of illegal immigrants caught at the border last year was the lowest since 1971, Border Patrol statistics showed.

Still, the White House began pressing in October for tighter asylum rules as part of any legislative package on immigration. “We effectively have a policy where if you make an unproven assertion up front of having quote unquote credible fear, that you can be released into the United States almost immediately,” Stephen Miller, the White House senior policy adviser who has been the architect of Mr. Trump’s immigration crackdown, said last week in an interview.

The ruling effectively closes a major avenue for asylum seekers, one dominated since 2014 by women fleeing Central America.

The Board of Immigration Appeals found in 2016 that the woman in the case — named A-B-, for her initials — was part of what the asylum system refers to as a “particular social group” because women in El Salvador are often unable to leave violent relationships and their government has not been able to protect them. She therefore qualified for asylum.

Asylum seekers can make claims that they suffered persecution related to race, religion, nationality, political opinion or their particular social group, broadly considered to include people who share a common characteristic that endangers them and whose governments will not protect them. Legal scholars have debated its definition, and some groups who have qualified include relatives of dissidents, L.G.B.T.Q. people, victims of domestic violence and people fleeing violent gangs.

Mr. Sessions narrowed that definition. “Generally, claims by aliens pertaining to domestic violence or gang violence perpetrated by nongovernmental actors will not qualify for asylum,” he wrote.

Attorneys general as far back as Janet Reno, who served from 1993 to 2001, have weighed in on the use of the particular social group in asylum cases, going back and forth on how to treat issues like domestic violence.

Domestic violence victims gained eligibility after the 2014 case of a Guatemalan woman, Aminta Cifuentes. She suffered a decade of abuse by her husband, including acid burns and punches to her belly while she was eight months pregnant, forcing a premature birth. Her baby was born with bruises.

Since then, women from around the world have used the same argument to win protection in the United States. Gender-based violence was a particular problem in Central America and parts of Mexico, according to a 2015 United Nations report, which compared it to the refugee crisis emerging at the same time in Europe.

“Saying a few simple words — claiming a fear of return — is now transforming a straightforward arrest for illegal entry and immediate return into a prolonged legal process,” Mr. Sessions said in his speech, to immigration judges gathered outside Washington.

Some of them said he was infringing on their ability to decide cases.

Mr. Sessions did not publicly say why he intervened in the case, which some immigration judges found troublesome, said Ashley Tabaddor, the president of the National Association of Immigration Judges.

The attorney general’s ability to “exercise veto power in our decision-making is an indication of why the court needs true independence” from the Justice Department, Ms. Tabaddor said.