

COMMENTARY

Remembering 'Sara and Jane'

Thoughts on immigration law and abuse victims seeking asylum

By Kate McCarroll

Early in my career, I handled asylum cases for two women who fled to the United States because they had been abused by their husbands and feared further harm. They were the only asylum cases I ever handled. Each won her claim, and I am hopeful that they are now U.S. citizens, living happy, productive, safe lives in the country that opened its arms to them when they were most afraid.

One woman, "Sara," was the victim of honor crimes. Sara was kept as a prisoner in her home by her husband, who irrationally feared that she would venture out and become "too-Westernized." It wasn't until Sara was in her late 40s that she mustered up the courage and found the opportunity to flee him. Sara was able to travel to the U.S., where one of her children was attending college.

The other woman, "Jane," was also kept hostage by a controlling husband. He beat her, raped her, and shot her in the back when she tried to run from him. Jane was afraid to seek help because her husband had friends in the police department in the town where they lived. She finally found the opportunity to flee in the middle of the night, with nothing ... so scared that she left her infant child behind. Jane knew her husband would not harm the baby, and she planned to return later to get him.

It was difficult to look at these two brave women and not be affected by the



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of those cases has meant more to me than those of these two women.

There are dedicated immigration attorneys all over the U.S. who tirelessly work to help asylum seekers, including women who have been abused like my clients were. They were dealt a devastating blow by Attorney General Jeff Sessions in June, when he determined that abuse victims and victims of gang violence would no longer be eligible for asylum protection in the U.S.

The law does not explicitly provide asylum protection for these categories of victims. Asylum is available to individuals who have been persecuted, or have a well-founded fear of persecution, on account of their race, religion, nationality, political opinion or particular social group. Simply being abused or a crime victim is not enough — it must be because of one of these protected grounds.

As often happens, soon after these asylum regulations took effect, shortcomings were discovered. In particular — what about spouses who were the victims of abuse? Gender is not a protected ground. Are abused women a particular social group?

This issue (whether domestic abuse victims are a particular social group) worked

fear in their eyes, even if they were thousands of miles from their abusers. In my more than 15 years of immigration law practice, I have helped thousands of clients travel to the U.S., obtain green cards or file for U.S. citizenship. But none

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its way through immigration courts for 15 years. Finally, the Board of Immigration Appeals determined that yes — those who were victims of abuse, whose government could not or would not control the perpetrators, could seek asylum protection. A reasoned conclusion based on the clear, underlying purpose of U.S. asylum law.

On June 11, Sessions reversed this precedent, stating that domestic abuse and gang violence were not grounds for asylum protection. This change in course overturned long-held case law set by immigration judges and universally accepted by three prior Attorneys General, immigration attorneys, law enforcement agencies and U.S. circuit courts.

The statement sparked widespread outrage — from the public, media and members of Congress. A group of more than 15 retired immigration judges issued a statement: "As former Immigration Judges with decades of experience at the trial and appellate level, we consider the Attorney General's decision an affront to the rule of law." Such change in precedent, it is argued, should go through the same legal channels that created it in the first place, rather than by a unilateral pronouncement.

We are hopeful that Attorney General Sessions' announcement will be overturned by the appellate courts or reversed by congressional legislation. In the meantime, I am thankful and proud that my asylum-seeking clients found safety in the United States. It saddens me that the U.S. is no longer a refuge for abuse victims seeking protection, just as these brave women did.

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