

# Impact of a US asylum decision on sexual and reproductive health and rights: a call to action for health and legal professionals

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## Introduction

The political environment and legal decisions in the United States (US) can impact lives around the globe. A recent attack on women's sexual and reproductive health and rights (SRHR) occurred in June 2018 when former US Attorney General Jeff Sessions reversed a decision (*Matter of A-R-C-G-*) in which domestic violence was recognised as a basis for asylum.<sup>1</sup> Domestic violence is one form of gender-based violence, encompassing sexual and physical assault and reproductive coercion, which disproportionately harm women. Given the global epidemic of gender-based violence, we argue that Sessions' reversal of this decision and efforts to rollback protection for domestic violence survivors could have far-reaching impacts on women around the world. This article will provide some recommendations for medical and legal professionals in response to this affront on SRHR.

## *Matter of A-R-C-G- and its importance to sexual and reproductive health and rights*

Until the 2014 decision *Matter of A-R-C-G-*, there was no clear precedent recognising domestic violence as a basis for asylum, which led to inconsistent decisions by US adjudicators. In the landmark case of *A-R-C-G-*, the Board of Immigration Appeals, the administrative body responsible for interpreting US asylum law, recognised that women escaping domestic violence could be eligible for asylum in the US based on their membership of a social group, specifically "married women in Guatemala who are unable to leave their relationship."

In June 2018, the US Attorney General rejected the recognition that the Board of Immigration Appeals had given to this particular social group in *Matter of A-B-*, a case involving a Salvadoran woman who had suffered domestic violence. In *Matter of A-B-*, Attorney General Sessions proclaimed, without basis, that:

*Generally, claims by aliens pertaining to domestic violence or gang violence perpetrated by non-governmental actors will not qualify for asylum. [...] The mere fact that a country may have problems effectively policing certain crimes — such as domestic violence or gang violence — or that certain populations are more likely to be victims of crime, cannot itself establish an asylum claim.*

With this decision, Sessions tried his best to eviscerate decades of US asylum law and eliminate refugee protection for some of our world's most vulnerable people. In *Matter of A-B-*, Sessions flouted well-established US obligations under both domestic and international law that require adjudicators to engage in a case-by-case analysis of asylum claims and that protect people who fear persecution on account of one of five grounds — race, religion, nationality, membership in a particular social group, or political opinion — when their countries of origin are either unable or unwilling to protect them.<sup>2,3</sup>

The Attorney General's reversal of the *Matter of A-R-C-G-* decision is not just of grave concern for immigration lawyers and refugees. The ruling mistakenly characterises domestic violence as a "personal" matter. In doing so, the decision ignores

the power dynamics endemic to domestic violence, which experts, international authorities, and decision makers all agree are inextricably linked to gender inequality.<sup>4</sup> Given that an estimated 30% of women report a lifetime experience of intimate partner violence,<sup>5</sup> the decision is alarming for all women and particularly for women's SRHR.

Legal decisions not only provide mechanisms for individuals to pursue justice, but they also serve as symbols of what is considered to be acceptable or not acceptable in a society. The Attorney General's decision in *Matter of A-B* could limit mechanisms of justice available to women asylum seekers in direct contravention of international law recognising the need for protection in cases of gender-based violence. Furthermore, the decision could force women to return to settings where physical and sexual violence are common, femicide rates are among the highest in the world, and effective government protection is non-existent.<sup>6</sup> In the current political climate where there are persistent erosions of SRHR, health and legal professionals need to raze silos and work together to advocate most effectively for the people we serve.

### ***Collaboration among health and legal professionals***

In clinical practice, health professionals such as obstetricians and gynecologists routinely screen for intimate partner violence, given its high prevalence and health consequences.<sup>7</sup> This screening should take place as part of trauma-informed care — a model that recognises the impact of violence and trauma on the physical and emotional wellbeing of individuals.<sup>8</sup> In addition to clinical care, health professionals can also leverage their professional expertise for research and advocacy, to highlight the health-related sequelae of political decisions, such as those surrounding asylum. Although the literature around racial and ethnic disparities in health care is growing, relatively few studies explore how immigration status shapes health in the US. Health professionals need to be aware of their potential influence and take an active role in research, civic engagement and advocacy to promote the emotional and physical wellbeing of survivors of gender-based violence.

Moreover, there is an urgent need to develop bidirectional partnerships between health professionals and lawyers to address how political and legal decisions impact individuals vulnerable to gender-based violence, especially those

navigating immigration and/or asylum procedures. Unfortunately, health and legal professionals often work in their respective silos. Yet opportunities for synergy between the medical and legal fields exist and should be promoted.

The benefits of inter-disciplinary collaboration and advocacy can be widely incorporated into both legal and health care professional curricula; however, few medical training programmes include formal advocacy training.<sup>9</sup> One novel curriculum for internal medicine residents incorporates social change, leadership, and advocacy, including community organising, public speaking, power mapping, and media and legislative advocacy.<sup>9</sup> Such curricula should be replicated in other health professional schools.

Collaboration among clinicians and legal experts is needed to urge professional societies in both medicine and law to take a stand against political decisions that compromise the health and wellbeing of our patients and clients. For example, the American Academy of Pediatricians issued a policy statement condemning the separation of children from their families along the US–Mexico border.<sup>10</sup> While the American College of Obstetricians and Gynecologists has denounced the separation of families and attacks on SRHR, they have not yet issued a policy statement about the recent decision in *Matter of A-B*. With guidance from both health and legal experts, these types of professional organisations can leverage their power to highlight political decisions and their detrimental effects on health. Such statements from professional societies can then be disseminated to the general public as a call to action.

In the context of asylum cases, health professionals can complete training on how to conduct forensic physical and psychological evaluations, which can provide invaluable corroboration of asylum seekers' claims. Collaboration between lawyers and health professionals is gaining increasing traction in asylum representation, particularly in law school clinics and legal services organisations. Such interdisciplinary collaboration can transform not only the experiences of asylum seekers but also those of the professionals and law and medical students who work together to represent them.

Successful medical-legal partnerships (MLPs) should comprise integrated systems among health professionals, social workers, case managers, and legal experts to address the myriad of structural and social determinants of health inequities,

including navigating legal status. In our experience, asylum representation works best when lawyers and health professionals work closely together, including as part of the same legal team since asylum seekers are often as much in need of health care, as legal representation. The National Center for Medical-Legal Partnership tracks MLPs throughout the country, conducts research on the impact MLPs, and advocates for increased funding for patient-centred legal services.

### Conclusion

Former Attorney General Jeff Sessions' decision in *Matter of A-B* highlights the importance of US legal decisions and the surrounding political environment in determining the SRHR of individuals globally. Health and legal professionals need to go beyond their traditional roles to advocate for the people they serve and to partner in holding

political and legal authorities accountable for their decisions. Advocacy training and interdisciplinary collaboration should be further integrated into professional education for both clinicians and lawyers. Professional societies also need to leverage their power in political and legal decision-making processes. While health care clinicians make up a minority of political leadership positions, it is important to ensure diversity of experience and expertise are represented and considered in political decisions. Lastly, efforts to facilitate interdisciplinary collaboration between lawyers and health professionals in advocacy, such as through participation in MLPs, community-based organisations, and civil engagement, should be further strengthened and promoted.

### Disclosure statement

*No potential conflict of interest was reported by the authors.*

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