

**Immigration Court: BIA****Case:** *Matter of L-E-A-*, 27 I&N Dec. 40 (BIA 2017)**Date:** May 24, 2017**Adjudicated by:** Board Panel**Opinion:** Greer, Board Member**Tags:** Cognizable social group, asylum, family members, nexus**Question Presented:** Has the respondent established eligibility for asylum based on membership in a particular social group composed of his family?**Holdings:** Respondent did not prove that membership in his family group is at least one reason for the persecution he suffered.**Rationale:**

- “While family may be a particular social group, membership in such a group does not necessarily establish a nexus to a ground protected under the Act. Rather, the respondent must demonstrate that the family relationship is at least one central reason for the claimed harm to establish eligibility for asylum on that basis.” (40)

**Facts:** Respondent citizen of MX who entered U.S. in 1998 and departed voluntarily in 2011. Pressured by members of drug cartel to sell drugs at his father’s store in Mexico City. Escaped to U.S. Claimed well-founded fear of persecution because part of father’s family.**History of the Case:**

- IJ found respondent credible, but denied asylum on the basis of family membership because drug cartel was interested in father’s store, not persecuting family per se.

**Appeals to Statute & Precedent:**

- **8 U.S.C. §1158:** Asylum statute.
- ***Matter of Acosta*, 19 I&N Dec. 211, 233 (BIA 1985):** kinship ties as common, immutable characteristic
- ***Gebremichael v. INS*, 10 F.3d 28, 36 (1<sup>st</sup> Cir. 1993):** family as cognizable social group
- ***Jie Lin v. Ashcroft*, 377 F.3d 1014, 1028 (9<sup>th</sup> Cir. 2004):** attenuated family links not enough to confer particular social group membership
- ***Matter of J-B-N- & S-M-*, 24 I&N Dec. 208, 212 (BIA 2007):** membership in the social group must be at least one central reason for the persecutor’s treatment of the applicant.
- ***Vimi v. Gonzales*, 502 F.3d 150, 155 (2d Cir. 2007):** recognizing family members as a possible particular social group

- **Matter of C-A-**, 23 I&N Dec. 951, 959 (BIA 2009): cognizable social groups based on sex or family relationship
- **Al-Ghorbani v. Holder**, 585 F.3d 980, 995 (6<sup>th</sup> Cir. 2009): family as cognizable social group
- **Ayele v. Holder**, 564 F.3d 862, 869 (7<sup>th</sup> Cir. 2009): family as cognizable social group
- **Crespin-Valladares v. Holder**, 632 F.3d 117, 124-25 (4<sup>th</sup> Cir. 2011): family as cognizable social group
- **Matter of N-M-**, 25 I&N Dec. 526, 530 (BIA 2011): if there's a protected trait, then the applicant must establish that the persecution was on account of that trait (nexus).
- **Mendoza-Alvarez v. Holder**, 714 F.3d 1161, 1165 (9<sup>th</sup> Cir. 2013): If harm is suffered and associated with group membership, but the harm is more generalized as well, then there is no causal connection.
- **Matter of M-E-V-G-**, 26 I&N Dec. 227 (BIA 2014): cognizable social groups
- **Matter of W-G-R-**, 26 I&N Dec. 208 (BIA 2014): cognizable social groups
- **Rios v. Lynch**, 807 F.3d 1123, 1128 (9<sup>th</sup> Cir. 2015): family as cognizable social group
- **Ramirez-Mejia v. Lynch**, 794 F.3d 485, 492-93 (5<sup>th</sup> Cir. 2015): family as cognizable social group

**Commentary:**

- **Cognizable social group:** “a fact-based inquiry made on a case-by-case basis, depending on whether the group is immutable and is recognized as particular and socially distinct in the relevant society.” (42)
- **Burden for applicant:** “An applicant for asylum has the burden to establish a cognizable particular social group, his membership in that group, and persecution or fear of persecution on account of his membership in that group.” (43)
- **NEXUS:** “A persecution claim cannot be established if there is no proof that the applicant or other members of the family were targeted because of the family relationship.” (43)
  - “If the persecutor would have treated the applicant the same if the protected characteristic of the family did not exist, then the applicant has not established a claim on this ground.” (43-44)
- **Proving persecutor's motive:** IJ considers direct and circumstantial evidence, may make reasonable inferences. “While some scenarios will present a clear answer, others will require a more nuanced evaluation.” (44) (animus toward family? Political motive? Can't just be the basic fact of injury or threats—has to be *because of* family.)