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Battered Women and the Contentious Immigration Debate

By William Fisher

Should the U.S. congress reach agreement on an immigration bill, it is unlikely to include one of the simpler issues in this complex debate: granting asylum to battered women.

This is far from a new issue. It first drew national attention in 1995, when a Guatemalan woman named Rodi Alvarado escaped from her brutal husband, who subjected her to extreme domestic violence. He broke her jaw, kicked her when she was pregnant, wielded a machete and threatened that if she tried to escape he would leave her wheelchair bound for the rest of her life.

She did escape – to the U.S., which granted her asylum. But this decision was immediately appealed by the now defunct Immigration and Naturalization Service (INS) and overturned by the Justice Department's Board of Immigration Appeals in 1999.

The Board claimed she was not seeking asylum due to membership in a social group, political opinion, race, religion or nationality. They claimed she needed to show a nexus between the beatings and her political opinion or membership in a social group.

She was allowed to remain in the U.S. pending an appeal of the appeal. And she's still here, living in California and working in a convent.

Since its inception, the Alvarado case has become a poster child for a dysfunctional bureaucracy charged with managing immigration into the U.S. When the INS was absorbed into the mammoth Department of Homeland Security, it was renamed the U.S. Bureau of Citizenship and Immigration Services (BCIS). And to make resolution of the Alvarado case even more complex, BCIS now shares jurisdiction with the Justice Department (DOJ) for preparation of new guidelines that would cover her category of asylum seeker.

Near the end of the Clinton Administration, Attorney General Janet Reno proposed regulations to expand the ability of victims of domestic violence (and other gender-related human rights abuses like trafficking, sexual slavery and honor killing) to seek asylum in the United States.

But those regulations were never implemented. And when John Ashcroft became attorney general, he failed to recommend that the regulations be adopted. Instead, he re-certified Ms.

Alvarado's case to himself in order to review it, since the Attorney General has authority to make decisions on any immigration case.

But Ashcroft left office in 2004 without making a decision. He said the Justice Department and the Department of Homeland Security should agree on a set of guidelines covering women's issues, including domestic violence.

Since then, both agencies continue to claim they are working on these guidelines. Despite the fact that proposed regulations were drawn up back in December 2000, nothing has been finalized in more than five years. Rodi Alvarado's lawyer, Karen Musalo of the University of California's Hastings College of the Law in San Francisco, told IPS, "The complication is that now both DHS and DOJ have jurisdiction over the regulations because of the reorganization of the INS, and there has not been consensus between the two agencies on how to proceed."

Meantime, Mrs. Alvarado – and others in her predicament – remains in legal limbo.

The current immigration debate has rekindled interest in cases like that of Mrs. Alvarado. But a coalition of refugee and human rights groups is taking a new approach: it is urging congress to examine the "root causes" of population movements.

Responding to the claim by some congresspersons that easing asylum restrictions would "open the floodgates" to still more undocumented aliens, a report by one of the members of the coalition, The Center for Gender and Refugee Studies at the University of California at Hastings, argues that "the solution is not to deny protection, but to look at the root causes of refugee flows, and to craft foreign policy responses to address them."

And it is taking its case not to immigration agencies but to a few key members of congress who, they hope, will help them to take their message to the State Department.

The reason they want State involved is that there is credible evidence that domestic violence is part of a larger and even more deadly phenomenon: Femicide. And the State Department is a major funder of programs to strengthen the judiciary and other rule of law institutions in Guatemala and elsewhere around the world.

For example, in Mrs. Alvarado's country, Guatemala, the coalition says "there is violence and murder of women with total impunity – with more than 2,200 women killed since 2000, and perhaps 10 or 11 prosecutions and convictions. Local media has largely ignored the issue.

Femicide is also a problem elsewhere in Latin America. Earlier this year, Bolivia, Peru, Colombia, Mexico and Guatemala sent a delegation of activists to the Inter-American Commission on Human Rights in Washington to focus attention on Femicide.

In addition to the deaths in Guatemala, incomplete murder rates presented to the Commission cite 373 known murders of women in Bolivia from 2003 to 2004, and 143 in Peru during 2003. In Colombia, a woman is reportedly killed every six days by her partner or ex-partner. Ciudad Juarez and Chihuahua City, Mexico, two cities where the Femicide trend was first widely

noticed, have suffered the murder of more than 500 women from multiple causes since 1993, according to press and other sources. Dozens more remain missing.

Globally, the problem is no less severe. In many parts of South Asia and the Middle East, for example, so-called “honor killings” usually go unpunished.

Leading the Femicide campaign are four non-governmental organizations – the Washington Office on Latin America, Amnesty International USA, the Center for Gender and Refugee Studies, and the Guatemalan Human Rights Commission.

Three members of congress – California Democrats Barbara Lee, Tom Lantos, and Hilda Solis – are drafting a letter to the State Department, which they hope will be signed by most of their colleagues, regardless of party. The letter will urge State to provide funding and personnel to examine the Femicide issue as well as the murder of human rights activists.

Resolving cases such as Mrs. Alvarez’s might appear to be a relatively simple part of the complex and contentious immigration debate now taking place in congress. But, given the incredible rancor generated by the immigration issue, protection for battered women is probably off the radar.

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