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**A DOOR OPENS FOR
BATTERED ASYLUM-SEEKERS**

In late October, the Obama Administration's Department of Homeland Security (DHS) signaled that the government is open to considering asylum claims from women fleeing severe domestic violence when it recommended that a San Francisco immigration court grant asylum to Rody Alvarado Peña, whose case has been in and out of United States immigration courts for 14 years.

While the action applies only to Alvarado Peña's case, experts are calling it is a major step toward defining the legal grounds on which battered and sexually abused women from foreign countries can seek protection in the United States. The Family Violence Prevention Fund, Center for Gender and Refugees Studies, and other advocates for victims of violence have long advocated for this recommendation.

An immigration judge must now formally rule on the case, but Alvarado Peña's lawyer, Karen Musalo, who directs the Center for Gender and Refugee Studies at Hastings College of Law at the University of California, says that since the government itself is in favor of a grant of asylum, it is likely that a judge will approve her claim.

In an interview with the *New York Times*, Alvarado Peña said she hoped the resolution of her case will mean that other abused women receive quicker, favorable decisions from the immigration courts.

"The Department of Homeland Security should follow up its brief in the Alvarado case by issuing something more lasting and

useful: a firm, clear set of regulations spelling out the conditions under which battered women could be granted asylum here," the *New York Times* recommended in a November 9 editorial. "Such regulations would give invaluable guidance to asylum officials and immigration judges and prevent the years of delays and uncertainty that so worsened Ms. Alvarado's ordeal."

Family Violence Prevention Fund President Esta Soler agreed. "We intend to press vigorously for strong regulations or laws that will ensure that victims of domestic and sexual violence do not spend decades in limbo, fighting deportation in our immigration courts," she said. "We cannot put the fate of women whose lives are in grave danger at the mercy of whatever Administration holds office."

Grim History

Rody Alvarado Peña came to the United States from Guatemala in 1995 after more than a decade of vicious abuse at the hands of her husband, a former soldier in the Guatemalan army. Married at age 16, Alvarado Peña suffered rape and beatings from a husband who broke mirrors over her head, caused her to miscarry, and beat her unconscious.

Divorce was impossible without her abusive husband's consent, and no shelters or other supports were available. So Alvarado Peña fled to the United States.

Although she was granted asylum in 1996, the government appealed the ruling. Nobody ever disputed the horrific facts in her case, but in the years since immigration courts have made conflicting rulings that left her in limbo.

The legal questions surrounding whether abused immigrant women are

eligible for asylum focus on whether these women are part of a “particular social group” that has faced persecution – one of the criteria for seeking asylum. At present, United States law requires that any applicant for asylum or refugee status demonstrate a “well-founded fear of persecution” based on race, religion, nationality, political opinion or “membership in a particular social group.” Victims of gender-based violence often are not persecuted for their race, religion, nationality or political opinion, so in order to win asylum they need to be recognized as members of a social group. When the government declines to find them to be social group members, they are denied asylum or left in limbo.

“The administration’s move should serve as an important symbolic victory for the human rights of battered women everywhere, a message that brutality at the hands of a spouse and administered with the acquiescence of the state is never acceptable,” the *Washington Post* said in a November 10 editorial.

In another favorable action, earlier this year DHS moved to allow some battered women to receive asylum in the United States in a brief in the case of L.R., a Mexican woman who requested asylum because she feared her common-law husband would kill her. That DHS brief argued that abused women who can show that they are treated as subordinates or property by their abusers, in a country where domestic abuse is widely tolerated and no institutions provide protection, should be granted asylum. *Read the DHS brief at <http://cgrs.uchastings.edu/pdfs/Redacted%20DHS%20brief%20on%20PSG.pdf>.*

HOUSE SUBCOMMITTEE EXAMINES INTERNATIONAL VIOLENCE AGAINST WOMEN



In late October, for the second time that month, powerful voices came to Capitol Hill to ask for stronger measures to stop violence against women

worldwide and to press for passage of the *International Violence Against Women Act (I-VAWA)*. At an October 21 hearing before the Subcommittee on International Organizations, Human Rights and Oversight, of the House Foreign Affairs Committee, violence prevention experts including U.S. Ambassador-at-Large for Global Women’s Issues Melanne Vermeer and actress and UNIFEM Goodwill Ambassador Nicole Kidman discussed the violence experienced by women and girls around the world. On October 1, the Senate Foreign Relations Committee held its first-ever hearing on gender-based violence.

Calling herself a voice for the women she’s met in her role as UNIFEM’s Goodwill Ambassador Kidman said: “These champions need and deserve our support, not with a box of Band-Aids but with a comprehensive and well-funded approach that acknowledges that women’s rights are human rights... Everyone I work with at UNIFEM – and I – believe that *I-VAWA*, when passed, will be a beacon lighting the way forward for other countries.”

“The reality is that violence against women is a humanitarian tragedy, a vicious crime, a global health catastrophe, a social and economic impediment, and a threat to national security,” Representative Jan Schakowsky (D-IL) testified. “I feel strongly that we must do more to help the women throughout the world whose lives have been forever altered by violence and the families, communities, countries, and

even entire regions of the world that will never be stable, open and prosperous so long as violence against women in perpetuated.” She praised *I-VAWA* as a needed solution.

Subcommittee Chairman Bill Delahunt (D-MA) said he plans to re-introduce *I-VAWA* soon. “This legislation would systematically integrate and coordinate efforts to end violence against women in our foreign policy, promote women’s human rights and opportunities worldwide, support and build the capacity of local NGOs working to end the violence and, finally, to enhance training in humanitarian relief and crisis settings,” he said.

“We need a greater response to this global pandemic,” Ambassador Verveer agreed. “Women are critical to progress and prosperity, and when they are marginalized and mistreated, humanity cannot progress. When they are accorded their rights and afforded equal opportunities, they lift up their families, their communities and their nations. It is time that violence against women and girls become a concern for all of us.”

“If we believe that people have human rights, the rights of women to have equal treatment and to be free from violent attack just like men in their society, that should be right on the top of our agenda when we discuss human rights and other issues with these countries,” added Ranking Member Dana Rohrabacher (R-CA).

Breakthrough Founder and Executive Director Mallika Dutt and Shared Hope International President and Founder and former Member of Congress Linda Smith also testified.

New public opinion research commissioned by the Family Violence Prevention Fund and Women Thrive Worldwide finds that the majority of voters (61 percent) say addressing global violence should be one of the top priorities for the United States government. One in four voters says it should be the top priority.

Read more about the research at <http://endabuse.org/userfiles/file/GlobalPrevention/Lake Intl Research Key Findings Memo 9-09.pdf>.

“[*I-VAWA*] is the right thing to do, it’s the moral thing to do and it’s the smart thing to do,” Representative Delahunt said. “This past September we marked the 15th anniversary of the *Violence Against Women Act*... and there’s no reason why we should not be commemorating the first anniversary of the *International Violence Against Women Act* next year.”

**Photo Credit: Mckenzie Lock, Women Thrive Worldwide.*

HOUSE HEALTH REFORM BILL CONTAINS KEY DOMESTIC VIOLENCE PROVISIONS

The Family Violence Prevention Fund is praising the U.S. House of Representatives for including in its health reform bill a key prevention initiative that will advance the health care system’s response to domestic violence and curb the tremendous health costs that result from it.

Passed on November 7, the legislation would require private insurers and the new Health Insurance Exchange to reimburse health care providers who assess patients for domestic violence and provide brief counseling and referrals. Health care providers can play a critical role in helping patients recognize the dangers associated with abuse, and connecting them to experts who can help them take steps to protect themselves and their children – if providers are given the time, training and supports to do so.

The reform bill also contains an important measure to prohibit insurers from treating domestic violence as a pre-existing

condition and discriminating against victims. The House health reform bill would put the prohibition into effect immediately. This protection is based on language in the *Security and Financial Empowerment (SAFE) Act* introduced for several years by Representative Lucille Roybal-Allard (D-CA).

“Doctors and other health care providers are in a unique position to identify when their patients are experiencing domestic violence, and connect them with local service providers who can save their lives,” said Family Violence Prevention Fund President Esta Soler. “We are absolutely delighted that the health insurance reform bill the House passed today contains these important provisions, and especially grateful to Representatives Louise Slaughter (D-NY) and Roybal-Allard for ensuring that the insurance non-discrimination provision can take effect immediately. We hope Congress will soon advance laws that prohibit discrimination on

the basis of domestic violence in homeowner and other forms of insurance as well.”

Violence can have lifelong consequences; one study found that women who have experienced domestic violence are 80 percent more likely to have a stroke, 70 percent more likely to have heart disease, 60 percent more likely to have asthma, and 70 percent more likely to drink heavily than women who have not experienced intimate partner violence. A 2003 study found that 44 percent of victims of domestic violence talked to someone about the abuse, with 37 percent of women talking to their health care provider

In June, the Family Violence Prevention Fund organized a letter to congressional leaders requesting the inclusion of these and other provisions in health reform legislation.
