

# Amnesty International USA's REFUGEE ACTION

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NSA 5/00

Refugee Concern (Fear of Refoulement)

May 15, 2000

UNITED STATES OF AMERICA:

D- K-, from Democratic Republic of Congo  
A, from Guatemala  
T. K., from Pakistan  
G. A., El Salvador

On May 25, 1999 Amnesty International USA (AIUSA) issued an action regarding the asylum case of Ms. Rodi Alvarado, a national of Guatemala (NSA 6/99). Ms. Alvarado. An immigration judge granted Ms. Alvarado asylum in 1996. The Immigration and Naturalization Service (INS) appealed. The INS won its appeal in a decision by the Board of Immigration Appeals (BIA) issued on June 11, 1999 when a sharply divided BIA reversed the grant of asylum to Ms. Alvarado.

The BIA's ruling, Matter of R- A-, represents a landmark decision on the subject of domestic violence and asylum, and it is already having a noticeable negative impact on many gender-based asylum cases across the United States. Below are examples of some of the cases that have come to AIUSA's attention.

SUMMARY OF THE CASES (Note that the facts presented here represent the testimony of the asylum seekers. Amnesty International is concerned about the legal issues involved in these cases, and cannot attest to the validity to the stories told.)

## D. K., Democratic Republic of the Congo

Ms. K married an officer in former President Mobutu's military and had four children with him. K's husband was abusive throughout their marriage and exerted complete control over her. After a 1995 incident in which Ms. K's husband shot a colleague but escaped prosecution because of his powerful connections, he became emboldened in his abuse. He began violently abusing Ms. K on a regular basis. He would threaten her with a gun, kick her and beat her, hard enough that she lost consciousness and often in front of the children. He repeatedly raped her, causing infections and other sexually transmitted diseases.

Ms. K claims it was futile to go to the police for help, not only because of her husband's connections to Mobutu's family but because the police do not involve themselves with such matters. She claims that Congolese woman cannot obtain a divorce without her husband's consent. In January 1998, after a particularly severe beating, she went into hiding and then fled to the United States.

An immigration judge characterized the abuses Ms. K suffered as "atrocities," and quoted a U.S. State Department report that "[d]omestic violence, including rape and beatings, is widespread but rarely reported<sup>1/4</sup>" and that there "are no provisions under the law for spousal battery[,]". Nevertheless, the judge denied her application for asylum. The BIA acknowledged that her husband had "committed brutal and deplorable acts of domestic violence against her" and said "we extend our sympathy to her." But the BIA ruled that Ms. K's case was controlled by its decision in Matter of R-A-.

## A, from Guatemala

When Ms. A was 17 years old she went on a date with Mr. F, known to her from his visits to her family home. She agreed to go to a restaurant with F, but after they were done eating, F forced her onto a bus, and took her to his residence several hours away. Ms. A begged him to let her go home, but he refused. F struck her and then raped her.

For six months, Ms. A was held captive by F at his home, and repeatedly raped and beaten. She was gagged and bound in his bedroom, and forced to urinate and defecate on herself. She managed to escape one night when F was drunk and forgot to restrain her. Ms. A went to a doctor and was hospitalized for eight days. She did not go to the police because she claims they would not have helped her. According to the U.S. State Department, rape victims are reluctant to report their attackers, and few rape cases are prosecuted; Amnesty International has expressed concern about the weak state of Guatemala's police and judiciary;.