

United States Senate

WASHINGTON, DC 20510

December 2, 1999

The Honorable Janet Reno
United States Attorney General
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Reno:

We are writing to express our deep concern about the decision by the Board of Immigration Appeals to reverse an immigration judge's grant of asylum. Rodi Alvarado Pena is a Guatemalan woman whose request for asylum is based on 10 years of brutal domestic violence. She suffered at the hands of her husband, from whom she was unable to obtain protection in her own country. To survive, she was forced to flee her home and leave her family behind, including two small children.

We believe the Board's interpretation of the refugee statute is inconsistent with United States case law and policy on the issue. We urge you to review Ms. Alvarado's case, and reinstate the grant of asylum. The Board's decision constitutes a binding decision on the question of violence against and persecution of women as a basis for political asylum in the United State. Timely action on your part to reverse this decision is critical, not only for Ms. Alvarado, but also for other victims of domestic violence who have sought asylum in the United States.

As you know, the facts of Ms. Alvarado's case are both brutal and compelling. She was severely abused by her husband, and she fears for her life, should she return to Guatemala. While the Board expressed sympathy for her plight, and agreed that Ms. Alvarado had been persecuted, it ruled that she did not qualify for protection under the United States Refugee Act.

We believe that U.S. law in this area is clear. An individual seeking asylum in the United States must demonstrate that he or she has a well-founded fear of persecution on account of race, religion, nationality, political opinion, or membership in a particular social group. In fact, the Immigration Judge found that Ms. Alvarado faced persecution on account of her membership in the social group of Guatemalan women who are intimately involved with men who believe women should be required to live under male domination. Since Ms. Alvarado also faced persecution due to her resistance to her husband's violence, the judge also granted asylum on the ground of political opinion.

When the Board rejected the immigration judge's ruling, it overruled the finding that Ms. Alvarado was targeted for abuse because of her membership in a social group and because of the political opinion imputed by her persecutor. We are concerned that this decision may establish a double standard in U.S. law, working to the detriment of women. Where persecution is inflicted, at least in part due to a woman's gender, there has been an emerging consensus that the persecution is due to a woman's membership in a particular social group.

The dissent of five members of the Board evidences the support for this argument. The majority chose to differentiate between the supposedly more private forms of persecution, typically suffered by women, and the most public forms of persecution, typically suffered by men. We believe that the gender guidelines issued by the Immigration and Naturalization Service in 1995 were intended to overcome this outdated distinction.

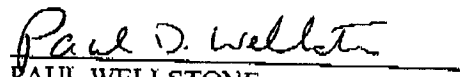
Upon a thorough review of the case, we urge you to clarify the existing guidelines by concluding that Ms. Alvarado qualifies for asylum under the Refugee Act and reinstate the grant overturned by the Board.

Sincerely,


ROBERT G. TORRICELLI
United States Senator


PATRICK J. LEAHY
United States Senator


EDWARD M. KENNEDY
United States Senator


PAUL WELLSTONE
United States Senator


MARY L. LANDRIEU
United States Senator
