

# Editorial



*Why is America sending abused foreign women back to their tormentors?*

## Give Them Shelter, Now!

**m** *i vida, mis hijos,*" is what Rodi Alvarado Peña told *Glamour* when she was asked what she gave up to come to America: "My life, my children." The nightmare had lasted more than 10 years by the time a terrified Alvarado Peña fled her home in Guatemala City, Guatemala. When she arrived in America, she testified that her husband, whom she had married at the age of 16, had brutalized her nearly every day. He raped her, vaginally and anally, she said, adding that he'd kicked her in the spine when she was pregnant and had once broken a window with her head. "I will cripple you," she said he warned after she'd tried to run away. "I will mark your face so it will be scarred forever."

Alvarado Peña, now 32, a short, dark-haired woman, repeatedly went to the Guatemala City police, but she was told they couldn't interfere in a "family matter." So she made the heartbreaking decision to flee her homeland alone. In May 1995, while her children were vacationing with her in-laws (who, she says, are decent people), Alvarado Peña made her way to San Francisco. What she didn't know—what many don't know—was that America, famed for welcoming the world's oppressed, does not consider women under violent domestic siege to be victims of persecution. A U.S. Immigration and Naturalization Service judge granted Alvarado Peña asylum in September 1996, but to her horror, the Board of Immigration Appeals (BIA) reversed that decision this summer. The BIA said that, while it believed her testimony, she was not eligible for safe haven here under current law, which states that, to be granted asylum here, foreigners must prove that they face persecution in their homeland

because of race, religion, nationality, political opinion or social group. The BIA ruled Alvarado Peña was not harmed for any of those reasons. Its decision asserts that a female in a patriarchal society isn't a member of a "persecuted social group." Unless a higher circuit court intervenes, she will be returned to Guatemala, where she says her husband, a soldier, has vowed to hunt her down and maim or even kill her no matter where she's hiding.

In a precedent-setting 1996 decision, a Togolese woman was granted asylum after fleeing to avoid female genital mutilation. Why doesn't that logic apply to a woman who, if turned away, faces mutilation (or worse) at the hands of an abusive husband?

Pauline,\* 50, a mother of four from the Democratic Republic of Congo who wishes to remain anonymous, says her husband raped her, broke her jaw and threatened to kill her. If she is sent home (her case is under review), she returns to a nation where married women can't hold jobs, rent apartments, open bank accounts or get divorced without their husbands' consent. If this is not a "persecuted social group," then what is?

Oponents say allowing such women to stay in this country would open the floodgates to women from around the world claiming abuse. Nonsense, says Wendy Young, attorney for the Woman's Commission for Refugee Women and Children, a Washington, D.C.-based education and advocacy organization. "Most of these women lack the resources to get to the United States," she explains. Canada, which has accepted domestic violence as a basis for granting asylum since 1993, has not experienced a skyrocketing number of such cases.

It's not only Alvarado Peña's future that's at stake. At issue is whether the United States has a legal and moral responsibility to help these women. Alvarado Peña's attorneys are appealing the BIA's decision to the Ninth Circuit Court of Appeals, which covers the western United States. To help set a national precedent, they've also asked Attorney General Janet Reno to overturn the decision.

Several intergovernmental organizations in Europe have recommended that their member states recognize women who suffer gender-related persecution as refugees. Ireland, England and Australia have all made progress in this new area of law. Until the Alvarado Peña case, so had the United States. But now, in an

arena where we should be setting the standard, America is shamefully lagging behind.

Meanwhile, Alvarado Peña works as a housecleaner in California while her fate is decided. A sister regularly sends word about her daughter, 12, and her son, seven, who are living with her in-laws and—as far as she knows—have never been harmed by her husband. (If Alvarado Peña is granted asylum, her children would legally be allowed to join her, but she's afraid her in-laws wouldn't permit them to leave Guatemala.)

Alvarado Peña didn't come to America expecting to find gold in the streets. "I am only here," she says, "because I needed to save my life." And now that life is in the hands of the American courts. ©

Urge Attorney General Janet Reno to review this case immediately by calling 202-514-2000. To learn more about women seeking asylum, visit the University of California Hastings College of the Law's Center for Gender and Refugee Studies Web site ([www.uchastings.edu/cgrs](http://www.uchastings.edu/cgrs)).