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RAPE AND ABUSE

Don't send women back to their tormentors

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Women fleeing rape could become more vulnerable under proposed legislation recently passed by the House.

Just before Christmas, by a vote of 239 to 182, the House passed a bill that could hamper victims of persecution who seek asylum in our country.

While the bill affects all asylum seekers, women fleeing rape, domestic violence, forced marriage, genital cutting, trafficking or other gender-related crimes would be significantly affected.

Called the Border Protection, Anti-Terrorism and Illegal Immigration Control Act of 2005, the bill would expand the already controversial "expedited removal" process that forces people with false or inadequate documentation -- many of whom are asylum seekers -- to be summarily removed from the country without any judicial review or fair hearing.

Expedited removal

While the law would provide exceptions for anyone who expresses an intent to apply for asylum, a 2005 study by the U.S. Commission on International Religious Freedom shows that in many cases even people who expressed a fear of persecution were subjected to expedited removal.

Under the new bill, the decision to remove someone through this process will be made by low-level immigration-enforcement officers with little or no training in immigration law. What's more, they may have little, if any, understanding of gender-based violence, or the cultural, psychological and linguistic barriers that often prevent women and girls from articulating their claims within moments of arriving in a strange new country.

Fortunately, federal courts have played a crucial role in rectifying mistakes made by lower-level judges and the Board of Immigration Appeals.

In June 2004, in *Garcia-Martinez vs. Ashcroft*, a case involving a Guatemalan woman who had been gang-raped by government soldiers during the civil war in her country, the Ninth U.S. Circuit Court of Appeals reversed the finding of an immigration judge and the Board of Immigration Appeals. The Ninth Circuit found that, in the context of war, "rape is not about sex; it is about power and control," sometimes used to intimidate a civilian population perceived to be in political opposition to the armed force in question."

Under the new House bill, cases such as these could be denied federal court review.

Thousands of women could be sent back into the hands of their persecutors, in complete violation of our moral and international obligations under the 1951 Refugee Convention and its 1967 Refugee Protocol, which the United States is a party to.

Legitimate claims

Even those who are found to have a credible fear of persecution would be placed in a detention facility where they are likely to be housed with -- and treated like -- criminals and violent offenders.

The recent House bill also would make unlawful presence (of even one day) in the United States an aggravated felony, statutorily barring applicants from asylum relief.

But we should not turn away or arrest vulnerable women and girls with legitimate claims, all in the name of border

protection and anti-terrorism. Lawmakers must find a humanitarian balance between security and granting asylum, instead of handing these women back into the hands of their persecutors.

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