

Reno Voids Denial of Asylum For Guatemalan Battered Wife

By SUSAN SACHS

In one of her last acts as attorney general, Janet Reno yesterday voided an immigration panel's ruling that denied political asylum to a Guatemalan woman who fled her country to escape an abusive husband.

The decision was immediately hailed as a boon for other women who are seeking asylum in the United States on grounds that they were persecuted because of their sex.

"It erases the one major precedent that had been an obstacle to the granting of those cases," said Karen Musalo, a professor at the University of California Hastings College of the Law in San Francisco.

In her order, Ms. Reno vacated a 1999 decision by the Board of Immigration Appeals concerning the Guatemalan woman, Rodi Alvarado Peña, whose case has become a rallying point for many women's advocates in New York and across the country.

While acknowledging that Mrs. Alvarado had suffered appalling beatings at the hands of her husband, the judges on the appeals board said that she did not qualify for political asylum as a member of a persecuted group. They denied her request to remain in the United States. Mrs. Alvarado has appealed the decision in federal court and is living in California while her case is pending.

Her lawyers had argued that Mrs. Alvarado was a member of a persecuted social class by virtue of being a woman in a patriarchal culture that tolerated violence against women.

Similar arguments have been made on behalf of foreign women who flee countries where female genital mutilation is practiced, where men are excused for killing female relatives who are sexually active, and where men have the legal right to prevent a female relative from traveling.

Immigration judges have some-

times granted asylum to women who suffered abuse or feared abuse in such countries. But their rulings have not been consistent.

Ms. Musalo said the Alvarado ruling two years ago significantly shifted the debate because it established new and more stringent criteria for abused women seeking asylum.

The decision by Ms. Reno to vacate that ruling, Ms. Musalo added, could help other women whose cases were still pending before immigration judges. "This brings us back to the body of law that existed before," she said.

Mrs. Alvarado's quest for a haven

An immigration panel had denied a battered wife's plea.

is not over. The Board of Immigration Appeals will now reconsider her request for asylum, although possibly according to different ground rules.

In her one-paragraph order, Ms. Reno directed the board to wait until federal rules on gender-based asylum claims were finalized and to reconsider the case in light of those rules.

In December, the Immigration and Naturalization Service asked for public comment on proposed rules for deciding asylum requests from women who say they are victims of domestic violence. At the time, the agency said it wanted to make it easier for abused women to qualify for asylum.

The rules are not final and it is not clear whether the immigration agency, under the new leadership of the Bush administration, will ultimately adopt them.