

Battered Women: A NEW ASYLUM CASE

BY ANNA SHELTON

A battered immigrant from the Congo calls collect from a pay phone at the 300-bed detention center in Elizabeth, New Jersey. She has been waiting there since March 1998 to be granted asylum in the United States. She goes only by her initials, D.K. In hurried French, she describes the history of her relationship with her abusive husband in her home country. She says she endured threats and harassment from the beginning of their marriage twenty-five years ago. After twenty-one years together, she claims, her husband began to abuse her physically in front of her four children.

"He beat me," she says. "He kicked me. He dragged me on the ground. He threatened me with a gun." Once she had an operation on her eye after he beat her badly, she says. Her husband is a major in the military and has friends among the police. These connections, she says, "made it difficult for me to do anything."

Then, in January 1998, her husband beat her almost to death, she says. Her son saved her, dragging her out of the house and taking her to the home of her brother. She was unconscious for four days.

While she recovered, her brother and a friend began making plans to send her to the United States, where they understood she would be protected. Using her sister's passport, she left the Congo in March 1998.

"My brother told me that when I got to the United States, I just needed to explain my story and they would understand," she says. "So I explained it to somebody in the airport, and they saw my face, which was deformed after the beating and was sort of twisted. My cheek was sagging a little bit." Instead of gaining protection, D.K. was taken to Manchester, Massachusetts, where she was processed as an illegal immigrant because she had used her sister's passport.

Anna Shelton interned at The Progressive this summer. The interviews in this piece were translated by Mary Alice Sicard and Teresa Calderon.

"I would like for the United States to protect women like me," she says. "Neither my family nor my government can protect me in my country. There are women who die because of these things. I lived it—I saw it with my own eyes. There was one policeman whose wife wanted to leave him, and so he killed her. I just want to emphasize that if I go back to the Congo, I cannot divorce my husband because he'll never agree to it. He'll kill me. I'm absolutely positive that he'll kill me."

D.K. is not alone. Dozens of battered women from around the world have applied for asylum in the United States, but they are finding it much more difficult to obtain than they ever anticipated.

Under current U.S. law, you can gain asylum only if you have a "credible fear" of persecution because of your race, religion, nationality, political opinion, or membership in a social group. Advocates for battered women argue that some women fleeing domestic violence should be granted asylum as well. Canada began offering protection to battered women seeking asylum in 1993.

In 1994, U.S. Immigration Judge Paul Nejeleski granted protection to a Jordanian woman who was fleeing thirty years of domestic violence in her home country. It was the first time an immigration judge

granted asylum for someone fleeing spousal abuse. "The respondent has been harmed and threatened on account of two of the five grounds," Nejeleski ruled, "political opinion and membership in a particular social group." He determined that "these two grounds are not mutually exclusive. The respondent believes in Western values. The respondent's social group consists of those women who espouse Western values and who are unwilling to live their lives at the mercy of their husbands, their society, their government."

The next big step forward occurred in 1995, when the Immigration and Naturalization Service (INS) issued gender guidelines for asylum officers considering the cases of women who have been persecuted because of their sex. The guidelines state that "rape (including mass rape in, for example, Bosnia), sexual abuse and domestic violence, infanticide, and genital mutilation are forms of mistreatment primarily directed at girls and women, and they may serve as evidence of past persecution on account of one or more of the five grounds."

In 1997, Fauziya Kassindja of Togo was the first to file a successful claim, citing fear of genital mutilation. Adelaide Abankwah of Ghana was the second. Her similar claim was just granted on August 13.

Asylum guidelines have also been broadened in recent years to grant protection to gays and lesbians who fear persecution in their home countries. Dusty Araújo, asylum program coordinator at the International Gay and Lesbian Human Rights Commission in San Francisco, says that the commission knows of about 250 cases of asylum granted in the United States on the basis of sexual orientation since 1994. "Around the world, gays, lesbians, transgendered, and HIV-positive people are denied their rights on a daily basis," says Araújo. "In many countries, people are jailed just because someone