

## **Fed. court opens door for Guatemalan asylum claim**

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SAN FRANCISCO — So many women are murdered with impunity every year in Guatemala that a federal appeals court said Monday that they should be considered for political asylum, opening the possibility of U.S. citizenship to similarly situated women in other countries.

The 9th U.S. Circuit Court of Appeals reversed the deportation orders of two immigration courts that such a claim applies too broadly. The San Francisco-based court ordered the immigration judges in the U.S. Department of Justice to reconsider granting asylum to Lesly Yajayra Perdomo, an illegal immigrant in her mid-30s who settled in Reno, Nev.

Most important, the court ordered the Board of Immigration to determine whether all Guatemalan women can qualify — a decision that could open the door to similar claims from other countries such as El Salvador, Honduras and others with history of widespread gender abuse.

Such a determination would continue an expansion of asylum eligibility beyond the traditional claims of political and religious oppression. Successful asylum applicants have to show they were persecuted because of religion, political beliefs, race, nationality or membership in a particular social group.

Courts in recent years have granted asylum to an increasing number of people claiming persecution of a social group: women fearing genital mutilation, victims of domestic violence and other gender-based claims.

But courts have never opened the possibility of asylum to such a large social group as all the women of Guatemala, which has a population of 13.5 million.

More than 3,800 Guatemalan women have been murdered since 2000 and fewer than 2 percent of the crimes have been solved, according to the Center for Gender and Refugee Studies at the University of California, San Francisco's law school.

"This is not a phenomena limited to Guatemala," said Karen Musalo, head of the center.

This is the first such case to reach this high in the United States' court system, which has grappled with determining gender-based claims for asylum, she said.

The timeline for resolving the issue is unclear because the courts aren't under any deadlines to act.

The U.S. Department of Justice said it received 3,250 asylum applications from Guatemalans in fiscal year 2009 and granted 155. Only natives of China and El Salvador made more asylum claims — 9,336 and 3,458, respectively. The DOJ received a total of 39,279 applications and granted 10,186 asylum requests in the same period.

The DOJ doesn't keep track of the number of gender-based claims.

Advocates for Guatemalan refugees hailed the ruling as long overdue and a recognition of how violent and chaotic that country has become since a ruinous civil war in the 1990s.

“The problems in Guatemala are getting worse and not better,” said Kelsey Alford-Jones of the Washington D.C.-based Guatemala Human Right Commission. “This will be a very important tool for women seeking to escape violence in Guatemala.”

There are an estimated 1.5 million Guatemalans in the United States and migration makes it one of the highest undocumented populations, she said. It is unclear how many other Guatemalan women have made similar asylum claims as Perdomo.

Perdomo followed her mother to the U.S. in 1991 when she was 15 and settled in Reno, where she graduated high school and found work in the health care industry.

In 2003, the Immigration and Naturalization Service began deportation proceedings and she applied for asylum the next year citing Guatemala’s poor record of investigating and solving the hundreds of murders of women annually. The appeals court noted that the Board of Immigration, which rejected Perdomo’s asylum petition, has never addressed whether gender itself could be the basis for an asylum claim.

Perdomo is single, fluent in English and graduated high school in Reno. She is a Medicaid account executive for a health care company in Reno and is an active member of a Pentecostal church, according to the court.

On Monday, the appeals court said past decisions suggest that women in Guatemala may qualify for asylum, which is granted to those showing they were persecuted because of religion, political beliefs, race, nationality or membership in a particular social group.

Perdomo asked the court to include Guatemalan women as a “particular social group” eligible for asylum.

“While we have not held expressly that females, without other defining characteristics, constitute a particular social group, we have concluded that females, or young girls of a particular clan, met our definition of a particular social group,” Judge Richard Paez wrote for the unanimous three-judge panel.

Unless there is an appeal, the case goes back to the Board of Immigration to determine if Perdomo should be granted asylum. Perdomo’s attorney is optimistic that the board will adopt the appeals court’s findings and expand asylum to Guatemalan women in the United States who prove a legitimate fear of murder.

“Sending these girls back is a death sentence,” said Alan Hutchison, Perdomo’s lawyer.

The violence in Guatemala affects men and women.

There are about 17 deaths per day in Guatemala City, a city of 2 million. However, experts agree that violence against women is proportionally worse there than in other places.

“It’s scandalous, from the standpoint of a nation, that all women are eligible for asylum just because we are women. But the numbers are there. Statistics show that it (violence) is proportionally higher,” said Carmen Rosa de Leon Escribano, director of the Center for Education for Sustained development, a nonprofit group that studies violence in Guatemala.

The Department of Justice didn’t return a telephone call.

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AP Writer Juan Carlos Llorca contributed to this story from Guatemala.