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Give Us Your Huddled Masses - But Battered Women Need Not Apply!

Here's a note for the "to do" list of the Obama Administration's newly appointed Domestic Violence Czar - or Czarina in this case: Battered wives and significant others pose a serious law enforcement and public health problem affecting as many as one in four women in this country. But they are not just an American problem. Women are being whacked all over the world. And some of them are trying to find safety in America - and are being turned away.

Why? Because of the inept and bureaucratic foot-dragging of our Departments of Justice and Homeland Security. Thanks to their sorry non-performance over more than a decade, domestic violence is still not a legal basis for seeking asylum in the U.S.

Consider the plight of Rodi Alvarado from Guatemala. At 16, she married a man who, for the next decade, terrorized her. He raped and sodomized her almost daily, beating her before and during the violations. Because he was unfaithful, he infected her with sexually transmitted diseases. He dislocated her jaw when he learned that her period was late, and violently kicked her when she refused to abort her baby, causing her to bleed for eight days.

She tried to run away, even to the other side of the country, but her husband - a former soldier - always found her. One night, he woke her to whip her with an electrical cord, pulled out a machete and threatened to cut off her arms and legs if she ever tried to leave him again. He broke windows and mirrors with her head. He pistol-whipped and threw a machete at her, punched her and dragged her by her hair.

Mrs. Alvarado repeatedly sought help from the police in Guatemala, but to no avail. She pled her case to a judge, but the judge said the same thing: They don't involve themselves in domestic matters.

Finally, in 1995, she did the most difficult and desperate thing she could do to save her life. After 10 years of cruelty, at age 28, she fled Guatemala and sought asylum in the United States.

There was only one problem. The U.S. has no asylum provisions that cover victims of domestic violence. Mrs. Alvarado was ordered deported. Under U.S. law, asylum applicants have to show they can't go home because they face persecution because of religion, race, nationality, political opinion, or membership in a particular social group. But not domestic abuse.

Enter a sympathetic immigration judge, who granted Mrs. Alvarado a temporary stay of deportation. That was in 1996 - thirteen years ago. And for thirteen years, Mrs. Alvarado has remained in this legal limbo. She hasn't been deported - she works as a housekeeper in a California convent. But she can't achieve any legal status and can't be reunited with her son and daughter, who remain in Guatemala. She hasn't seen them in thirteen years.

The reason: For more than a decade, the Department of Homeland Security and the Department of Justice have been playing musical chairs with a new asylum regulation that would cover victims of domestic violence. Without such a regulation, Mrs. Alvarado's case cannot come before a Board of Immigration Appeals, which is supposed to re-decide her fate.

The musical chairs have bounced Mrs. Alvarado's case from the Clinton to the Bush administrations, and now to the Obama Administration.

Opponents said new asylum rules would lead to a surge in claims, an assertion disputed by a large and bipartisan group of immigration, legal and religious advocates.

Those proposed regulations saved -- and stalled -- Alvarado's case. In 1996, an immigration judge granted Alvarado temporary asylum, finding that the abuse she suffered and the government's inability to protect her constituted persecution. But newly-installed Bush immigration service opposed the decision, and Alvarado's case went before the Board of Immigration Appeals, a Justice Department panel that reviews immigration cases.

The board ruled that Alvarado was not eligible for asylum and ordered that she be deported. But on her last day in office, Clinton Attorney General Janet Reno voided that ruling and instructed the board to reconsider the Alvarado case after the immigration service finalized the proposed regulations. A month later, George W. Bush took office.

The next stop in this cruel bureaucratic game was the desk of John Ashcroft, then Bush's Attorney General. Ashcroft certified the case to himself, making him effectively the judge. He said he would decide Mrs. Alvarado's fate. But he didn't. Instead, he kicked the can down the road, deciding neither to grant nor deny asylum to Alvarado. A decision, he said, should await new regulations from the Department of Homeland Security.

Wonder of wonders, the DHS actually drafted a regulation to make domestic abuse a valid legal basis for asylum-seekers. But the Department of Justice disagreed with the draft. In the years since then, the DOJ and the DHS have failed to agree on the domestic abuse asylum regulations. Ashcroft's inaction simply complicated the problem. Just

before he stepped down, he passed the responsibility for the Alvarado case to his successor, Alberto Gonzales, who faithfully followed in the quicksand footsteps of his predecessors: He did nothing. And his successor, Michael Mukasey, did exactly the same thing: Nothing.

The DHS says it will not press for Mrs. Alvarado's deportation regardless of how much longer it may take the agency to finalize the new regulations. But that's cold comfort to Mrs. Alvarado. At the current pace, she could be a very old lady by the time the DHS and the DOJ decide to actually do something.

That's where Obama's new Domestic Violence Czar could be a huge help. Lynn Rosenthal is an experienced advocate for abused women. She was executive director of the National Network to End Domestic Violence and executive director of the New Mexico Coalition Against Domestic Violence. She has focused on domestic violence issues like housing, state and local coordinated community response, federal policy, and survivor-centered advocacy.

Reporting to Obama and Vice President Joe Biden, she will have the ears of the two guys at the top of the tree. And it may be helpful that Biden has had a long-standing interest in the domestic violence issue, dating from his days in the Senate and his key role in enacting the 1994 Violence Against Women Act.

Immigration experts say they are more encouraged than ever that cases like Mrs. Alvarado's will be resolved by the Obama Administration. No doubt Ms. Rosenthal's cup will runneth over with issues of purely homegrown domestic violence - which the stresses of the recession have apparently caused to spiral out of control. Perhaps the relatively tiny number of battered women seeking asylum in America will be assigned a low priority.

But further delay would simply exacerbate a gross denial of justice. So even at a time when immigration in general remains one of the third rails of American politics, Lynn Rosenthal needs to find the time to flex a little White House muscle with the DOJ and the DHS. She needs to ensure that the process of writing one new regulation doesn't again fall victim to another decade of bureaucratic bungling and inter-agency turf wars.

So Rodi Alvarado can see her kids again.