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Clearer Rules Urged For Asylum Seekers

System Fails to Protect Women, Study Says

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Women seeking political asylum in the United States based on gender-related persecution can get mired in a legal labyrinth that can leave their cases unresolved for years, according to a report being released Thursday by the Tahirih Justice Center, a nonprofit group in Falls Church that works to protect immigrant women and girls from violence.

The center is among several advocacy groups calling for congressional legislation or regulatory action by the Obama administration to clarify the status of women fleeing their home countries to escape gender-specific dangers, such as forced marriage, genital mutilation, honor killings and domestic violence.

Tahirih and two other groups held a briefing on the issue Wednesday afternoon at the Rayburn House Office Building, where Rep. James P. Moran Jr. (D-Va.) agreed the system isn't working.

"There needs to be far more protection for women and girls. We're punishing the victim, and it really needs to be changed," Moran said.

Until the system changes, advocates say, there will be more cases such as the one involving a 23-year-old victim of domestic violence from Honduras. The woman, who now lives in Frederick, has strong evidence that she was beaten and stabbed by the man she was living with, a Honduran police officer.

The woman's lawyers have compiled a thick case file that includes hospital photographs of her face swollen with bruises, and stab wounds on other parts of her body.

Police in Honduras would not take her complaints seriously, and a women's center there told her nothing could be done. She fled here after the man threatened to kill her, she told U.S. immigration authorities.

In September the woman learned that an immigration judge in Baltimore had refused to grant her political asylum and the benefits that come with it: monetary and medical assistance, job placement and English-language classes. Instead, she was given a more limited Convention Against Torture protection, allowing her to live and work in the United States as long as the threat in Honduras exists.

Victims of domestic violence seeking asylum must prove they would not be safe in their country. Applicants also must be a member of a persecuted race, religion, nationality,

political opinion or social group, for example, women in a country where gender-specific violence is tolerated.

In the case of the Honduran woman, "the judge said the domestic violence was not on account of membership in a particular social group," said Daria Fisher Page, a senior staff attorney at Tahirih.

The woman is appealing the decision, which her supporters say illustrates the system's shortcomings.

The United States became one of the first countries to make asylum available for victims of gender-based persecution in 1995, but the rules for granting it have never been clear.

In 1996, a woman fleeing genital cutting in Togo was declared eligible for asylum by the Board of Immigration Appeals, the Justice Department body that handles asylum appeals.

The landmark decision provided a precedent for other judges to rule in favor of asylum for gender-based persecution.

But in 1999 the board reversed a grant of asylum to a woman fleeing abuse in Guatemala. (She is still waiting for her case to be resolved.)

The Bush administration never acted on the regulations proposed the next year, in the last days of the Clinton administration, affirming that such women could comprise a social group.

Various judges have issued different rulings on similar cases.

This will continue in the absence of clear regulations, said Karen Musalo, professor at University of California's Hastings College of the Law and director of the Center for Gender and Refugee Studies.

This year, the Department of Homeland Security filed a brief in a California case stating that a woman who had been abused by her husband in Mexico was eligible for asylum.

Homeland Security spokesman Matt Chandler said Wednesday that the department "continues to view domestic violence as a possible basis for asylum in the United States.

The issue is highly complex, and we are moving ahead to develop regulations that will address these cases."

The U.S. government does not keep track of how many women apply for asylum based on gender-related persecution.

Advocates say the numbers remain low, in part because it is so hard for such women to escape their situations and come here.

That belief is shared across the political spectrum.

"Looking at Canada and other countries [that offer such asylum], we don't see that it opens the floodgates," said Wendy Wright, president of Concerned Women for America, which urged the Bush administration to grant asylum to women fleeing extreme violence.

Besides calling for more sweeping regulations, the Tahirih report recommends removing the one-year deadline for women to file for asylum after arriving in the United States and urges that asylum seekers not be detained.

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