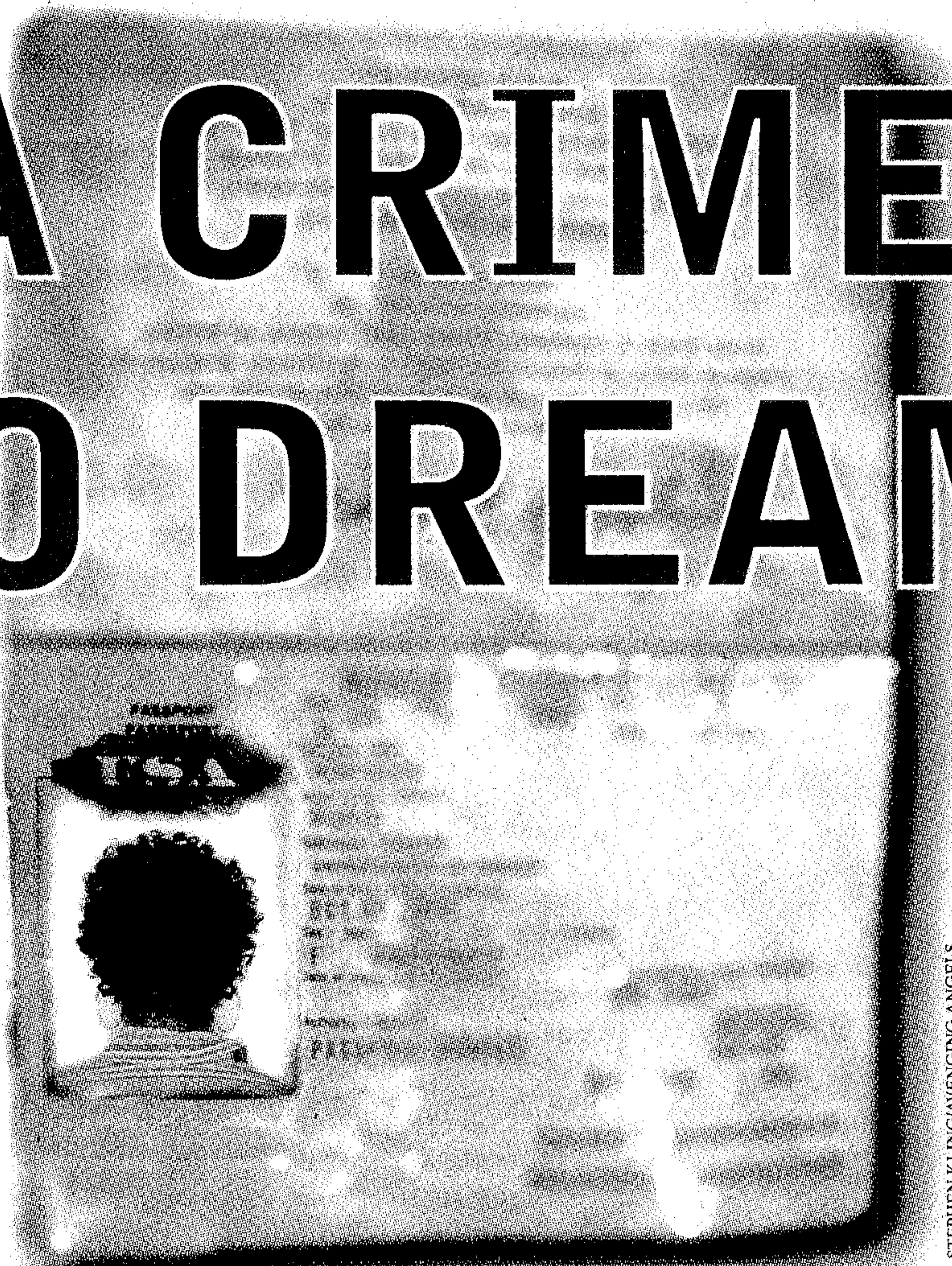


## ARTICLES

# A CRIME TO DREAM



STEPHEN KLING/AVENGING ANGELS

by **EDWIDGE DANTICAT**

**O**n April 15, 1984, Rodi Alvarado, a 16-year-old Guatemalan girl, married Francisco Osorio, a soldier five years her senior. They had known

each other only a short time, but societal pressures—the average marriage age in her province was 15—encouraged the union. Soon after the wedding Osorio moved Alvarado from her small town to Guatemala City, the capital, where he continued his often brutal army work.

“The military in Guatemala has tremendous authority,” Alvarado declared in her February 7, 1996, application for political asylum in the United States. “Soldiers have the authority to kill people, on the spot, if they commit a wrong—or even if they do not.” In her asylum application and in a recent interview, she detailed the harrowing story that follows.

Often drunk after work, Alvarado’s husband would brag to her about the many heinous acts he’d participated in. He would describe how he and his colleagues had tossed babies in the air and shot at them, how they had burned down houses with the inhabitants inside. Then he would beat her.

He would beat her mercilessly, sometimes until she was

unconscious, all the while telling her that he was only treating her the same way he was treated by the military.

“What they demand of

me, I demand of you,” he’d say. “Nothing scares me, because of what they’ve done to me in the army.”

Alvarado endured constant verbal and physical abuse through two pregnancies and the births of her children. Her husband kicked her in the spine and tried to force her to abort. After their births he continued to beat her openly, in the house, on the street, on the bus, at the local drinking hole. He once hit her face so hard that he dislocated her jaw. A punch in the eye made her fear she might lose her sight. At times he would drag her down the street by her hair and strike her head against a car, a window or whatever was nearby. He would pistol-whip her and kick her with his boots, but since he was a soldier and carried a gun, no one could intervene, not even her own frightened family members.

The beatings soon escalated into daily episodes of rape. The rapes, both vaginal and anal, resulted in constant abdominal pain, hemorrhaging and venereal diseases.

In December 1994, ten years after she'd married Osorio, Alvarado finally tried to escape by moving to another part of town with her young children. Her husband found her, threatened her, beat her and then left. Two months later he begged her to return home, telling her he had changed. She went back with him, she says, "for the children's sake."

The thrashings soon started again, this time with electrical cords, machetes and knives. He would throw knives at her hands and would cut her if she didn't move fast enough. One night he struck her on her arm with a machete and threatened to chop off her limbs if she tried to escape again.

Thinking it was her only way out, Alvarado attempted suicide by taking a handful of pills. The pills only made her sluggish, however, and she later had to flush them out of her system with water. When Osorio found out, he scoffed and told her she could die if she wanted to, but was not going to leave him any other way.

Since her husband was in the military, seeking help from Guatemalan authorities was risky, Alvarado stresses in a soft, tearful voice. Still, she filed several complaints with the police, who sent her home, saying they couldn't interfere in family matters. With no shelters or resources for victims of domestic violence available, Alvarado felt she had only two choices left: "flee or die."

Flee she did. While her children were with their paternal grandparents and Osorio was at work, Alvarado got on a bus heading for the United States. Her journey from Guatemala City through Mexico to Brownsville, Texas, took two days. When she tried to board a plane in Brownsville to San Francisco, where one of the other women on the bus was headed, she was questioned by immigration officials, but she failed to mention her history of severe domestic abuse, fearing that it wouldn't be considered a compelling enough reason for an asylum claim. A year would go by before she would file the asylum application detailing her plight.

In 1996 she was granted asylum by an immigration judge, only to have the decision reversed by the Board of Immigration Appeals (BIA) three years later. In 2001 then-Attorney General Janet Reno personally "vacated" the BIA's reversal, sending the case back for the panel to decide. In 2003 Attorney General John Ashcroft took the case away from the BIA to decide it himself. He held it for two years and only sent it back to the BIA, without a personal determination, right before he left office in January 2005, an identical decision to Janet Reno's, but one that has now extended Rodi Alvarado's asylum limbo to nearly a decade.

Every year, thousands of women like Alvarado arrive in the United States seeking refuge from unimaginable horrors. However, a large percentage of them are interdicted on the high seas or turned away at borders and airports and are essentially handed back to their torturers. Many of those who are "lucky" enough to get past the airport inspectors or border patrols are deported after hasty hearings or are

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imprisoned for months, and sometimes years, at a time.

Rose Thermitus was only 16 when she and 200 other Haitians landed in Key Biscayne, Miami, on October 29, 2002. Coinciding with the late-afternoon news hour, her arrival was captured live on national television, her desperate effort to wade ashore witnessed by millions of viewers. Rose and her older brother Franquelyn had boarded a boat in the north of Haiti after their home was burned down. Their parents had disappeared and are presumed dead. Nevertheless, both Rose's and Franquelyn's asylum requests were denied, and after ten months in detention Franquelyn was returned to Haiti. Because of a Haitian government policy against issuing travel documents to minors without parental consent, Rose could not be deported. However, she was held in a local hotel for thirteen months. Rose was finally paroled on January 7, 2004, a few months shy of her eighteenth birthday. She is subject to deportation now that she is 18.

Like Rose, Fauziya Kasindja Tijani was still in her teens when she arrived at Newark Airport in December 1994, after fleeing a forced marriage and female genital cutting in Togo, West Africa. In her searing memoir *Do They Hear You When You Cry*, she describes her fourteen-month detention in excruciating detail. "I had been beaten," she recalls, "teargassed, kept in isolation until I nearly lost my mind, trussed up in chains like a dangerous animal, strip-searched repeatedly, and forced to live with criminals, even murderers.... My teachers in Africa said that America was a great country. It was the land of freedom, where people were supposed to find justice. But I was delivered to a dark corner of America where there was no justice. There was only cruelty, danger, and indifference."

In some cases, this cruelty is further aggravated by sexual abuse. A 2001 Women's Commission for Refugee Women and Children investigation documented a number of sexual-assault cases at the Krome Detention Center in Miami, where several female asylum seekers became the victims of guards who "preyed on their vulnerability and uncertain immigration status to force them into sexual activities." (Krome has since stopped detaining women at its facilities but has transferred them to local jails and in some cases hotels.) The abuse and sometimes invasive and inhumane conditions that these women face in jail—including strip-searches, sleep deprivation, overcrowding, lack of medical care and access to lawyers and family members—further adds to their trauma and impairs their abilities to present their cases clearly and adequately to already skeptical immigration judges.

Some of the most egregious cases, says Cheryl Little, executive director of the Florida Immigrant Advocacy Center, involve women who are separated from their families or are detained in area hotels with their kids. "Mothers and their small children are locked up twenty-four hours a day, this despite a pool and fitness center located on their premises. Adults and children have gone months without a haircut, comb or a change of underclothes."

"It's heartbreaking," says Marleine Bastien, a Miami-based

social worker and activist and executive director of Haitian Women of Miami, who regularly visits the women and children at the hotels. "Children under 6 are confined to a motel room with their mothers for months with no access to recreation or fresh air, at taxpayers' expense. Some of the women are so depressed that they want to kill themselves."

"Something has gone wrong with our country," adds Lisa Frydman, Rose Thermitus's Miami-based attorney, "when we detain innocent, asylum-seeking women and children. They literally have their spirit broken in detention. They can't understand, after all their struggle, why they are put in jail in the land of the free."

In 1985 the United Nations High Commissioner for Refugees recommended that women facing inhumane treatment for having "transgressed the social mores" of their society be considered a "particular social group" and be granted asylum. However, according to Karen Musalo, director of the Center for Gender and Refugee Studies at the University of California Hastings College of the Law, who's served as counsel for both Alvarado and Kassindja Tijani, "The way we think about refugees is a male paradigm. If a man is tortured with electric shock during war, most people would say of course he deserves asylum. If a woman is raped during war, or is a victim of domestic violence, we don't consider it a form of persecution."

In a 1996 landmark decision, Kassindja Tijani ultimately received political asylum, becoming the first woman to be granted such status on the basis of female genital mutilation. According to Musalo, however, the United States still has no uniform, binding regulations or statutes on gender-based asylum, only advisory guidelines that do not need to be considered by higher-level decision-makers such as immigration judges, the Board of Immigration Appeals or even the Attorney General, whose authority over the detention process has expanded thanks to the aggressive efforts of John Ashcroft in the wake of the September 11 attacks.

"September 11 was a great tragedy," says Musalo, "but the second tragedy coming from it is that in the process of protecting ourselves, we are also destroying the kinds of ideals that this country stands for."

Among the many reservations that immigration officials seem to have about granting asylum to women fleeing gender-based persecution, according to Musalo, is the "floodgates" argument, or the fear that every woman who is abused in another country will seek asylum in the United States. Or, "You get a punch in the mouth and you're free," as someone once remarked to her. In reality, the women who most need to do so lack the resources to escape and make it to the United States. Also, many countries, like Australia and Canada, offer gender-based asylum and are not flooded with such cases. Musalo notes that "the United States may soon stand alone among industrialized nations in its refusal to fully acknowledge that women who suffer serious gender-based violations of their fundamental human rights are entitled to protection as refugees."

Kassindja Tijani, now married and a mother of triplets, has spent the years since her release speaking out against female genital cutting and the mistreatment of asylum seekers. "I lost my childhood when I came here," she says. "Sometimes I have

nightmares, finding myself behind bars, and I would wake up in a cold sweat."

A college graduate with a BS in accounting and business law, she hopes that the benchmark decision in her case is not reversed through an asylum denial for Rodi Alvarado. "I pray that it wouldn't happen," she says. "I hope women like me will continue to find shelter in this country."

"Rodi Alvarado's case is tremendously important," says Musalo, "because it will determine whether the United States will continue the positive steps it took with its grant of protection to Fauziya Kassindja Tijani—or whether it will attempt to renege on its promise of protection to women. A denial to Rodi would spell tragedy for the many women who escape to the United States seeking protection from the multitude of human rights violations that women in today's world suffer. The fact that Ashcroft left office without deciding this case shows how controversial the issue continues to be."

"I really hope to succeed," Alvarado, now 37, adds from San Francisco, where she works as a housekeeper in a convent for

retired nuns while awaiting a final outcome in her case. While describing both the cruelty and kindness she encountered upon her arrival in the United States, she says she'd like to one day counsel other women who are victims of domestic violence. Even though she greatly misses her two children, who remained behind in Guatemala, and is unable to visit her mother, who is ill with cancer, she's still glad she came here.

"The United States has been very good to me," she says. "At least here, I've been able to survive."

Haunted by the plight of the many women she's encountered in her work, Marleine Bastien wrote a poem to honor the hundreds, if not thousands, of women who are in detention and are unable to speak for themselves:

we are the women of the world  
in search of a safe haven...  
Is it a crime to want a future?  
Is it a crime to want to live?  
Is it a crime to dream?