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**DOOR OPENS FOR BATTERED
IMMIGRANT WOMEN SEEKING
ASYLUM**

In a case involving a Mexican woman seeking to escape brutal domestic violence in her home country, Obama Administration officials have taken a position that may open a door to asylum in the United States for some victims of severe abuse. The Family Violence Prevention Fund, Center for Gender and Refugees Studies, and other advocates for victims of violence have long advocated this kind of move.

The cautious position was laid out in a legal brief from the Department of Homeland Security (DHS) this spring in the case of L.R., a Mexican woman who requested asylum because she feared her common-law husband would kill her. The brief only recently became public.

L.R. is a teacher whose husband repeatedly raped her at gunpoint, held her captive, stole her earnings, and tried to burn her alive when he discovered that she was pregnant. Local police dismissed her reports of violence, and a judge from whom she sought help tried to seduce her, the court papers say.

DHS did not recommend immediate asylum for L.R., but in its brief government lawyers conclude that “it is possible” that L.R. and “other applicants who have experienced domestic violence could qualify for asylum.” That may open a narrow path for some battered women to receive asylum in the United States. The brief argues that abused women who can show that they are treated as subordinates or property by their abusers, in a country where domestic abuse is widely tolerated and no institutions

provide protection, should be granted asylum. Read the DHS brief at <http://cgrs.uchastings.edu/pdfs/Redacted%20DHS%20brief%20on%20PSG.pdf>.

The change does not affect women fleeing female genital cutting, whose cases have been accepted in the law since 1996.

At present, U.S. law requires that any applicant for asylum or refugee status demonstrate a “well-founded fear of persecution” based on race, religion, nationality, political opinion or “membership in a particular social group.” Victims of gender-based violence are often not persecuted for their race, religion, nationality or political opinion, so in order to win asylum they need to be recognized as members of a social group. When the government declines to find them to be social group members, they are denied asylum or left in limbo.

One such person is Rody Alvarado Peña, who came to the United States from Guatemala in 1995 after suffering vicious abuse at the hands of her husband for more than a decade. At age 16, Alvarado Peña had married a career soldier who raped and beat her, broke mirrors over her head, caused her to miscarry, and beat her unconsciousness. Divorce was impossible without her abusive husband’s consent, and with no shelters or other supports available, Alvarado Peña fled to the United States. She was granted asylum in 1996, but in the years since immigration courts have made conflicting rulings that left her in limbo.

In a guest editorial in the *Washington Post* last weekend, Family Violence Prevention Fund President Esta Soler and Center for Gender and Refugee Studies Director Karen Musalo lauded the move by DHS in the L.R. case, but added, “The filing

of one brief is no substitute for clear national policy”

“It’s time we put our regulatory house in order and assured victims of gender-based violence that they can count on justice in the United States,” they continued. “As the Obama Administration sets its priorities, this one should be easy... Rody Alvarado Peña deserves asylum and that it’s time to finalize the regulations affecting cases like hers. If federal agencies don’t do it through regulation, it’s time for Congress to do it through legislation.” *Read the guest editorial at www.washingtonpost.com/wp-dyn/content/article/2009/07/17/AR2009071702960.html.*

Other Immigration News

Earlier this month, DHS announced that it is revising a controversial program that authorizes local police to enforce federal immigration law – a policy ostensibly designed to combat illegal immigration that experts say has caused law-abiding immigrants to fear reporting crimes to police and cooperating with prosecutors, and has led to racial profiling and arrests of undocumented persons for minor traffic and other infractions.

According to DHS, the program, known as 287(g), will now focus on more serious

criminals and prevent law enforcement officers from arresting people for minor offenses as a guise to initiate removal proceedings.

Also this month, the *Georgetown University Law Journal* published a survey completed by nearly half the nation’s immigration court judges. It finds that surging caseloads and a lack of resources are taking a toll. Judges say they feel frustrated and demoralized, and experience unusually high stress, the *New York Times* reported on July 11.

More than half the judges surveyed (59 of 96 judges) wrote comments on the questionnaire elaborating about why they felt discouraged; complaints addressed the overwhelming volume of cases, insufficient time for careful review, a shortage of law clerks and language interpreters, failing computers, and faulty equipment for recording hearings. Many of the cases immigration judges hear are from people seeking asylum in the United States.

Immigration courts are run by the Executive Office for Immigration Review, a part of the Department of Justice, which recently hired four new immigration judges and plans to hire 28 more this year.