

February 27, 2003

VIA FACSIMILE

The Honorable John D. Ashcroft
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Room 440
Washington, DC 20530

Dear Attorney General Ashcroft,

I am writing to express the Lawyers Committee for Human Rights' concern about reports that you are about to take action that may make it more difficult for victims of domestic violence and other forms of persecution by non-state actors to gain asylum protection in the United States. In particular, we are concerned that adjustment of current U.S. policy on this issue could severely limit the eligibility of women fleeing many forms of gender-based violence – including sexual trafficking, sexual slavery, honor killing and domestic violence – for asylum protection in the United States.

In 1996, a Guatemalan woman named Rodi Alvarado was granted asylum after fleeing ten years of horrific domestic violence by her husband from which her government could not or would not protect her. That decision was appealed and reversed by the Board of Immigration Appeals (BIA), which held that, since the violence Mrs. Alvarado suffered was not perpetrated by the government and she was the only person her husband wanted to harm, she was not eligible for asylum. That decision was vacated by your predecessor Janet Reno, and the INS subsequently issued proposed regulations clarifying, in extensive introductory language, that domestic violence and other gender-related persecution, including persecution perpetrated by non-state actors, could form the basis of an asylum claim.

We have heard reports that you are considering re-instating the BIA decision in Mrs. Alvarado's case and issuing final regulations that may institutionalize the BIA's logic in rejecting her asylum claim. We are very concerned that this could result in denial of protection not only to Mrs. Alvarado but to whole categories of extremely vulnerable people, including, for example, victims of sex trafficking, women fleeing

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honor killing, and refugees who suffered horrific mutilation and abuse at the hands of the RUF, a rebel group in Sierra Leone notorious for its campaign of mutilation and organized sexual violence against girls and women.

If the reports about these new regulations are true, the rules will contravene established principles of international law, and contrast sharply with the policies of the United Nations High Commissioner for Refugees and the governments of Canada, the United Kingdom, Australia and New Zealand, all of which recognize that government tolerated gender violence can form a basis for asylum.

You have often spoken with pride about your Senate vote to enact the Trafficking Victims Protection Act and have worked as Attorney General to ensure that "victims of trafficking [who] are typically held in fear...have an opportunity for redress." (Attorney General News Conference, March 27, 2001). Asylum can be an important tool of protection for victims of trafficking and other gender-based persecution and crime – acts committed by private individuals often outside the control of their governments – who are afraid and unable to return home in safety. We urge you to ensure that US asylum policy does not impede granting protection to victims of these terrible abuses.

Sincerely,

Elisa Massimino
Director, Washington Office