

# U.S. SENATOR PATRICK LEAHY

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VERMONT

## Leahy Praises Resolution In Alvarado Asylum Case, Pushes Administration To Issue Regulations

WASHINGTON (Tuesday, Dec. 15, 2009) – Senator Patrick Leahy (D-Vt.) Tuesday praised the conclusion of a 14-year legal struggle that has resulted in the United States granting asylum to a domestic abuse survivor from Guatemala. Last week, an immigration judge granted asylum to Ms. Rody Alvarado, who fled to the United States in the 1990s seeking protection under the nation’s asylum laws.

“The details of Ms. Alvarado’s case are shocking,” said Leahy. “She suffered from horrific domestic violence in her home country of Guatemala, and sought protection in the United States under our asylum laws. Because persecution of this type had not previously been recognized as a basis for refugee or asylum protection, Ms. Alvarado was forced to fight a long legal battle to win her case.”

Ms. Alvarado fled her native Guatemala in 1995 to seek asylum in the United States as a result of sexual and domestic violence committed by her husband. Guatemalan police failed to intervene in the domestic violence despite the fact that Ms. Alvarado reported the crimes on five separate occasions. As a result, Ms. Alvarado came to the United States seeking protection under asylum laws.

Leahy continued, “The administrations of three different presidents – Clinton, Bush and Obama – have grappled with how to handle gender-based asylum claims, but the resolution of this case brings us closer to the end of this journey. Ms. Alvarado can finally feel safe here in the United States, because she is no longer at risk of being deported to Guatemala. The Obama administration must now issue regulations to ensure that other victims of domestic violence whose abuse rises to the level of persecution can obtain the same protection as refugees or asylees.”

Through three administrations, Leahy pressed five Attorneys General and three Homeland Security Secretaries to intervene in Ms. Alvarado’s case. In a statement Friday, Leahy urged the Obama administration to issue binding regulations to address further gender-based asylum claims.

“The Obama administration has laid out a welcomed, new policy in its legal briefs in this case, and I thank the President, Secretary Napolitano, and Attorney General Holder for bringing this case to such a positive resolution. Yet, the administration’s work is not done. It must issue binding regulations so that asylum seekers whose cases have been held in limbo for years can also be resolved and that future cases are not delayed in adjudication.”

The full text of Leahy’s statement follows.

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**Statement Of Senator Patrick Leahy (D-Vt.),  
Chairman, Senate Judiciary Committee,  
On The Case of Ms. Rody Alvarado  
December 15, 2009**

I am pleased to learn that, after 14 years of legal struggle, Ms. Rody Alvarado has finally received asylum in the United States. The details of Ms. Alvarado's case are shocking. She suffered from horrific domestic violence in her home country of Guatemala, and sought protection in the United States under our asylum laws. Because persecution of this type had not previously been recognized as a basis for refugee or asylum protection, Ms. Alvarado was forced to fight a long legal battle to win her case.

The administrations of three different presidents – Clinton, Bush and Obama – have grappled with how to handle gender-based asylum claims, but the resolution of this case brings us closer to the end of this journey. Ms. Alvarado can finally feel safe here in the United States, because she is no longer at risk of being deported to Guatemala. The Obama administration must now issue regulations to ensure that other victims of domestic violence whose abuse rises to the level of persecution can obtain the same protection as refugees or asylees.

Ms. Alvarado fled Guatemala in 1995 after being beaten daily and raped repeatedly by her husband. When she became pregnant, but refused to terminate her pregnancy, her husband kicked her repeatedly in the lower spine. Ms. Alvarado had previously tried to escape the abuse, seeking protection in another part of Guatemala, but her husband tracked her down and threatened to kill her if she left their home again. We know that Ms. Alvarado notified Guatemalan police at least five separate times, but the police refused to respond, telling her that her desperate situation was a domestic dispute that needed to be settled at home.

Over the past 14 years, Ms. Alvarado's case has been considered by immigration judges, the Board of Immigration Appeals, and three different Attorneys General. Throughout this extensive consideration, the core facts of her case have never been disputed. All parties have agreed that Ms. Alvarado suffered extreme abuse at the hands of her husband, and that the Guatemalan government would not protect her. All parties agreed that she has a well-founded fear that she would be abused again if she was forced to return to Guatemala.

The dispute in Ms. Alvarado's case centered on whether the abuse she suffered was persecution under the terms of the Refugee Convention and applicable U.S. law. To obtain protection in the United States, an asylum seeker must demonstrate that they have a well-founded fear of persecution based on race, religion, nationality, political opinion, or membership in a particular social group.

I first wrote to Attorney General Janet Reno in December 1999, when the Board of Immigration Appeals (BIA) reversed Ms. Alvarado's grant of asylum, concluding that her abuse was not persecution on account of membership in a particular social group. This decision was particularly troubling because it left unclear what grounds, if any, could be applied to a victim of severe domestic abuse who cannot obtain the protection of her country of origin. I wrote to Attorney General Reno again in February and September 2000 asking her to exercise her authority to review the case, called *Matter of R-A-*, and to reverse the BIA's decision. Unfortunately, the case was not reversed at that time, and it then languished for years. I wrote to Attorney General Ashcroft in June 2004 asking him to work with the Department of

Homeland Security (DHS) to issue regulations to govern cases such as Ms. Alvarado's and to then decide her case in accordance with such rules. When he was a nominee to be Attorney General in January 2005, I asked Mr. Alberto Gonzales to commit to taking up the case and resolving it if he was confirmed. Mr. Gonzales promised to work with DHS to finalize regulations, but did not take any action during his years as Attorney General.

Ten years after I and other members of Congress first sought appropriate action and the fair resolution of this case, we celebrate the long-overdue outcome. While I was dismayed at the length of time Ms. Alvarado has lived with fear and uncertainty, the final resolution of this case gives me hope that abuse victims like Ms. Alvarado who meet the other conditions of asylum will be able to find safety in the United States.

The Obama administration has laid out a welcomed, new policy in its legal briefs in this case, and I thank the President, Secretary Napolitano, and Attorney General Holder for bringing this case to such a positive resolution. Yet, the administration's work is not done. It must issue binding regulations so that asylum seekers whose cases have been held in limbo for years can also be resolved and that future cases are not delayed in adjudication. I urge the administration to immediately initiate a process of notice and comment rulemaking so that asylum seekers, practitioners, and other experts can contribute to the formulation of new rules.

Today, I commend Ms. Alvarado on the courage she has demonstrated over for many years while seeking protection in the United States. I congratulate her and wish her all the best as she finally experiences true freedom from persecution and the full scope of liberties enjoyed by Americans.

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