

from both sides of the aisle regarding his judicial nominees. Instead of praising the President for consulting with Republican Senators, the Senate Republican leadership has doubled back on what they demanded when a Republican was in the White House. No more do they talk about each nominee being entitled to an up-or-down vote. That position is abandoned and forgotten. Instead, they now seek to filibuster and delay judicial nominations. When President Bush worked with Senators across the aisle, I praised him and expedited consideration of his nominees. When President Obama reaches across the aisle, the Senate Republican leadership delays and obstructs his qualified nominees.

Although there have been nearly 110 judicial vacancies this year on our Federal circuit and district courts around the country, only 10 vacancies have been filled. That is wrong. The American people deserve better. As I have noted, there are 12 more qualified judicial nominations awaiting Senate action on the Senate Executive Calendar. Another nomination should be considered by the Judiciary Committee this week. I hope that with the session drawing to a close Judge Rogeriee Thompson of Rhode Island will not be needlessly delayed. The Senate should do better and could if Senate Republicans would remove their holds and stop the delaying tactics.

During President Bush's last year in office, we had reduced judicial vacancies to as low as 34, even though it was a Presidential election year. As matters stand today, judicial vacancies have spiked, and we will start 2010 with the highest number of vacancies on article III courts since 1994, when the vacancies created by the last comprehensive judgeship bill were still being filled. While it has been nearly 20 years since we enacted a Federal judgeship bill, judicial vacancies are nearing record levels, with 97 current vacancies and another 23 already announced. If we had proceeded on the judgeship bill recommended by the U.S. Courts to address the growing burden on our Federal judiciary and provide access to justice for all Americans, vacancies would stand at 160, by far the highest on record. I know we can do better. Justice should not be delayed or denied to any American because of overburdened courts and the lack of Federal judges.

There is still time to act on these nominations before the Senate recesses this year. I hope Senate Republicans will lift their objections and allow us to proceed on the 27 nominations reported by the Judiciary Committee. Absent cooperation to confirm nominations, this Congress will be recorded in history as one of the least productive in the confirmation of judicial nominations. I hope the New Year will bring a renewed spirit of cooperation.

#### RECEIPT OF ASYLUM

Mr. LEAHY. Mr. President, 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, BIA, five different Attorneys General, and three Secretaries of Homeland Security. 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 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 am 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 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.

#### A TRIBUTE TO ROBERT B. HEMLEY

Mr. LEAHY. Mr. President, last week, the Senate Judiciary Committee approved the media shield bill in a bipartisan vote of 14 to 5. This legislation would establish a qualified privilege for journalists to protect their confidential sources and the public's right to