

occupied Poland. Demjanjuk came to the United States in 1952 and lived in Seven Hills, OH. During World War II, Demjanjuk allegedly served as a guard at a number of concentration camps. Lanny Breuer, the Assistant Attorney General of the Criminal Division, said, "The removal to Germany of John Demjanjuk is an historic moment in the federal government's efforts to bring Nazi war criminals to justice. Mr. Demjanjuk, a confirmed former Nazi death camp guard, denied to thousands the very freedoms he enjoyed for far too long in the United States."

In 2004, Judiciary Committee Chairman PAT LEAHY's Anti-Atrocity Alien Deportation Act, enacted as part of the Intelligence Reform and Terrorism Prevention Act, further strengthened the Office of Special Investigations by statutorily authorizing it and expanding its jurisdiction to include serious human rights crimes committed after World War II.

The Domestic Security Section, which was established more recently, prosecutes major human rights violators and has jurisdiction over the criminal laws relating to torture, genocide, war crimes, and the use or recruitment of child soldiers. In 2008, the Domestic Security Section and the United States Attorney's Office for the Southern District of Florida obtained the first federal conviction for a human rights offense against Chuckie Taylor, son of former Liberian president Charles Taylor, for committing torture in Liberia when he served as the head of the Anti-Terrorist Unit. Taylor and other Anti-Terrorist Unit members engaged in horrific acts of torture, including shocking victims with an electric device and burning victims with molten plastic, lit cigarettes, scalding water, candle wax and an iron. Then-Attorney General Michael Mukasey said, "Today's conviction provides a measure of justice to those who were victimized by the reprehensible acts of Charles Taylor Jr. and his associates. It sends a powerful message to human rights violators around the world that, when we can, we will hold them fully accountable for their crimes."

The Human Rights Enforcement Act would seek to build on the important work carried out by the Office of Special Investigations and the Domestic Security Section by creating a new streamlined human rights section in the Criminal Division. My bill would combine the Office of Special Investigations, which has significant experience in investigating and denaturalizing human rights abusers, with the Domestic Security Section, which has broad jurisdiction over human rights crimes. Consolidating these two sections would allow limited law enforcement resources to be used more effectively and ensure that one section in the Justice Department has the necessary expertise and jurisdiction to prosecute or denaturalize perpetrators of serious human rights crimes.

This consolidation will also enable more effective collaboration between the Department of Justice and the Department of Homeland Security's Immigration and Customs Enforcement in identifying, prosecuting, and removing human rights violators from the United States. Immigration and Customs Enforcement has been at the forefront of the federal government's efforts to bring war criminals to justice and is currently handling over 1,000 human rights removal cases involving suspects from about 95 countries.

Immigration and Customs Enforcement and the Justice Department have complementary jurisdiction over human rights violations and partner closely in their efforts to hold accountable human rights violators. In some instances, where prosecution for a substantive human rights criminal offense is not possible, Immigration and Customs Enforcement can bring immigration charges. For example, Immigration and Customs Enforcement recently filed administrative charges against the two El Salvadoran generals who are responsible for the torture of Dr. Romagoza, which took place before the enactment of legislation prohibiting torture in the United States.

With the creation of a new streamlined human rights section in the Criminal Division of the Justice Department, Immigration and Customs Enforcement will have a stronger partner in the Justice Department to collaborate with on human rights violator law enforcement issues. This bill would require the Attorney General to consult with the Secretary of Homeland Security as appropriate, which means the Attorney General shall consult with the Secretary of Homeland Security on cases that implicate the Department of Homeland Security's jurisdiction and competencies.

The consolidation of the two sections in the Criminal Division of the Justice Department with jurisdiction over human rights violations would not affect or change Immigration and Customs Enforcement's existing jurisdiction over human rights violators. Immigration and Customs Enforcement will continue to have primary authority for removing human rights violators from the United States through the immigration courts.

At a hearing of the Human Rights and the Law Subcommittee on October 6, 2009, the Justice Department and Immigration and Customs Enforcement expressed strong support for combining the Office of Special Investigations and the Domestic Security Section. However, since the Office of Special Investigations is statutorily authorized, the Justice Department needs Congressional authorization to move forward on merging these two sections.

The Human Rights Enforcement Act also includes a number of technical and conforming amendments, including: 1) technical changes to the criminal law on genocide (18 U.S.C. 1091) that the Justice Department requested in 2007

to make it easier to prosecute perpetrators of genocide; 2) clarifying that the immigration provisions of the Child Soldiers Accountability Act apply to offenses committed before the bill's enactment; 3) a conforming amendment to the Immigration and Nationality Act required by the enactment of the Genocide Accountability Act; and 4) a conforming amendment to the material support statute, made necessary by the enactment of the Genocide Accountability Act and the Child Soldiers Accountability Act, making it illegal to provide material support to genocide and the use or recruitment of child soldiers. These technical changes will facilitate the government's ability to prosecute perpetrators who commit genocide or use child soldiers.

Dr. Juan Romagoza survived horrible human rights abuses, and had the courage to flee his home and find sanctuary in the United States, where he became an American and made great contributions to our country. We owe it to Dr. Romagoza, and countless others like him, to ensure that America does not provide safe haven to those who violate fundamental human rights. From John Demjanjuk, who helped massacre over 29,000 Jews during World War II, to the Salvadoran generals responsible for torturing Dr. Juan Romagoza, we have a responsibility to bring human rights violators to justice.

I thank my colleagues for supporting this legislation and hope it will be enacted into law soon.

#### PENDING NOMINATIONS

Mr. LEAHY. Mr. President, two weeks ago, I challenged Senate Republicans to do as well as Senate Democrats did in December 2001 when we proceeded to confirm 10 of President Bush's nominees as Federal judges. Regrettably, my plea has been ignored. Senate Republicans are failing the challenge. The Senate has been allowed to confirm only one judicial nominee all month. On December 1, after almost 6 weeks of unexplained delays, the Senate was allowed to consider the nomination of Judge Jacqueline Nguyen to fill a vacancy on the Federal Court for the Central District of California. When finally considered, she was confirmed unanimously by a vote of 97 to 0. Since then, not a single judicial nominee has been considered. It is now 2 weeks later, December 15.

Judicial nominees have been and are available for consideration. This lack of action is no fault of the President. He has made quality nominations. They have had hearings and have been considered by the Senate Judiciary Committee and favorably reported to the Senate. Indeed, the logjam has only grown over the last 2 weeks. Five additional judicial nominations have been added to the Senate calendar since December 1, bringing the total number of judicial nominations ready for Senate action, yet delayed by Republican obstruction, to 12. One has been ready for

Senate consideration for more than 13 weeks, another more than 10 weeks, and the list goes on. The majority leader and Democratic Senators have been ready to proceed. The Republican Senate leadership has not.

There are now more judicial nominees awaiting confirmation on the Senate's Executive Calendar than have been confirmed since the beginning of the Obama administration. Due to delays and obstruction by the Republican minority, we have only been able to consider 10 judicial nominations to the Federal circuit and district courts all year, and for one of them, although supported by the longest serving Republican in the Senate, we had to overcome a full-fledged filibuster led by the Republican leadership. As a result, we will not only fall well short of the total of 28 judicial confirmations the Democratic Senate majority worked to confirm in President Bush's first year in office, but we threaten to achieve the lowest number of judicial confirmations in the first year of a new Presidency in modern history.

It is clear that the Republican leadership has returned to their practices in the 1990s, which resulted in more than doubling circuit court vacancies and led to the pocket filibuster of more than 60 of President Clinton's nominees. The crisis they created eventually led even to public criticism of their actions by Chief Justice Rehnquist during those years. Their delays this year may leave us well short even of their low point during President Clinton's first term, when the Republican Senate majority would only allow 17 judicial confirmations during the entire 1996 session. That was a Presidential election year and the end of President Clinton's first term. By contrast, this is just the first year of the Obama administration.

We need to act on the judicial nominees on the Senate Executive Calendar without further delay. This year, we have witnessed unprecedented delays in the consideration of qualified and non-controversial nominations. We have had to waste weeks seeking time agreements in order to consider nominations that were then confirmed unanimously. We have seen nominees strongly supported by their home State Senators, both Republican and Democratic, delayed for months and unsuccessfully filibustered.

The 12 judicial nominations that have been given hearings and favorable consideration by the Senate Judiciary Committee and that remain stalled before the Senate are Beverly Martin of Georgia, nominated to the Eleventh Circuit; Joseph Greenaway of New Jersey, nominated to the Third Circuit; Edward Chen, nominated to the District Court for the Northern District of California; Dolly Gee, nominated to the District Court for the Central District of California; Richard Seeborg, nominated to the District Court for the Northern District of California, Barbara Keenan of Virginia, nominated to

the Fourth Circuit; Jane Stranch of Tennessee, nominated to the Sixth Circuit; Thomas Vanaskie of Pennsylvania, nominated to the Third Circuit; Louis Butler, nominated to the District Court for the Western District of Wisconsin; Denny Chin of New York, nominated to the Second Circuit; Rosanna Malouf Peterson, nominated to the District Court for the Eastern District of Washington; and William Conley, nominated to the District Court for the Western District of Wisconsin.

Acting on these nominations, we can confirm 13 nominees this month. In December 2001, a Democratic Senate majority proceeded to confirm 10 of President Bush's nominees and ended that year having confirmed 28 new judges nominated by a President of the other party. We achieved those results with a controversial and confrontational Republican President after a midyear change to a Democratic majority in the Senate. We did so in spite of the attacks of September 11; despite the anthrax-laced letters sent to the Senate that closed our offices; and while working virtually around the clock on the PATRIOT Act for 6 weeks.

At the end of the Senate's 2001 session, only four judicial nominations were left on the Senate Executive Calendar, all of which were confirmed soon after the Senate returned in 2002. At the end of the first session of Congress during President Clinton's first term, just one judicial nominee was left on the Senate Executive Calendar. At the end of the President George H.W. Bush's first year in office, a Democratic Senate majority left just two judicial nominations pending on the Senate Executive Calendar. At the end of the first year of President Reagan's first term—a year in which the Senate confirmed 41 of his Federal circuit and district court nominees—not a single judicial nomination was left on the Senate Executive Calendar.

In stark contrast, there are now 12 judicial nominees on the Senate Executive Calendar and no agreement from Senate Republicans to consider a single one. That is a significant change from our history and tradition of confirming judicial nominations that have been reported favorably by the Senate Judiciary Committee by the end of a session.

The record of obstruction of the Senate Republicans is just as disappointing when we consider the executive nominations that have been reported by the Judiciary Committee. There are currently 15 executive nominations that have been reported favorably by the Senate Judiciary Committee pending on the Senate Executive Calendar, including nominations for Assistant Attorneys General to run three of the 11 divisions at the Department of Justice. Each of these nominations has been pending 4 months or longer.

The President nominated Dawn Johnsen to lead the Office of Legal Counsel on February 11. Her nomination

has been pending on the Senate Executive Calendar since March 19. That is the longest pending nomination on the calendar by over 2 months. We did not treat President Bush's first nominee to head the Office of Legal Counsel the same way. We confirmed Jay Bybee to that post only 49 days after he was nominated by President Bush, and only 5 days after his nomination was reported by the Senate Judiciary Committee.

Mary Smith's nomination to be the Assistant Attorney General in charge of the Tax Division has been pending on the Senate's Executive Calendar since June 11—more than 6 months. We confirmed President Bush's first nomination to that position, Eileen O'Connor, only 57 days after her nomination was made and 1 day after her nomination was reported by the Senate Judiciary Committee. Her replacement, Nathan Hochman, was confirmed without delay, just 34 days after his nomination.

Among the nominations still waiting for consideration is that of Christopher Schroeder, nominated on June 4 to be Assistant Attorney General for the Office of Legal Policy, OLP. Mr. Schroeder's nomination has been pending before the Senate since July of this year when he was reported by the Senate Judiciary Committee by voice vote and without dissent. There was no objection from the Republican members of the committee on his nomination, so it puzzles me why we cannot move to a vote.

President Bush appointed four Assistant Attorneys General for the Office of Legal Policy. Each was confirmed expeditiously by the Senate. In fact, his first nominee to that post, Viet Dinh, was confirmed by a vote of 96 to 1 just 1 month after he was nominated and only a week after his nomination was reported by the Senate Judiciary Committee. Professor Schroeder's nomination has been pending for over 4 months. President Bush's three subsequent nominees to head OLP—Daniel Bryant, Rachel Brand, and Elisebeth Cook—were each confirmed by voice vote in a shorter time than Professor Schroeder's nomination has been pending.

Senate Republicans should not further delay consideration of these important nominations.

Returning to judicial nominations, I hope that instead of withholding consent and threatening filibusters of President Obama's nominees, Senate Republicans will treat President Obama's nominees fairly. I made sure that we treated President Bush's nominees more fairly than President Clinton's nominees had been treated. I want to continue that progress, but we need Republican cooperation to do so. I urge them to turn away from their partisanship and begin to work with the President and the Senate majority leader.

President Obama has reached out and consulted with home State Senators

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 Rogerie 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