

Statement Submitted by # Immigrant and Victim Advocacy Organizations

Hearing of the Senate Judiciary Committee, March 18, 2013:

“How Comprehensive Immigration Reform Should Address the Needs of Women and Families”

March 15, 2013

We, the undersigned # national, state and local organizations that assist and advocate on behalf of immigrant survivors of domestic violence, sexual assault, and human trafficking in the United States, as well as refugee and immigrant women fleeing violence in other countries and seeking safe haven in the United States, write in support of the Senate Judiciary Committee’s focus on concerns of women and families in comprehensive immigration reform (CIR), and to urge particular attention to key issues of vital concern to the courageous survivors we represent. At this moment, Congress has a unique opportunity to enact meaningful reforms to a broken immigration system and provide essential protections for those immigrants who are most vulnerable. Indeed, many immigrants find themselves in abusive or exploitative situations in their homes and workplaces due to their lack of immigration status. Abusive partners, opportunistic predators, and manipulative employers often exploit a victim’s lack of immigration status, or dependent immigration status, as a way to maintain power and control and to keep victims silent. While immigration remedies provided under the Violence Against Women Act (VAWA), the Trafficking Victims Protection Act, and US asylum laws may help some, clarifying and strengthening these forms of protection so that no survivor falls through the cracks is urgently needed. Additionally, comprehensive immigration reform is needed to help prevent this vulnerability to abuse and exploitation in the first place. Reforms are also imperative to enable the United States to live up to its domestic and international protection obligations, and to reassert our country’s leadership globally as a nation of compassionate, well-reasoned, and above all, just, laws.

As advocacy organizations and victim services providers, we believe that any comprehensive immigration reform effort must be particularly mindful of the needs of survivors of domestic violence, sexual assault, human trafficking and other gender-based human rights abuses. There continue to be obstacles and barriers to access immigration relief and other protections and assistance for immigrant survivors that we urge Congress to address through comprehensive immigration reform, most notably through expanding opportunities for law enforcement to enlist help from immigrant victims of crimes, supporting immigrant survivors in their efforts to achieve self-sufficiency, clarifying the availability of asylum protection for those who flee gender-based persecution, and ensuring that immigration enforcement reforms do not impede the access of survivors of violence to life-saving protections. Increased attention to preventing violence and exploitation is also needed, including greater access to vital information about rights and resources for all immigrants, as well as greater regulation of foreign labor recruiters and other systems responsible for labor migration.

We preview below just a few of the important priorities for refugee and immigrant women facing violence that we urge the Senate Judiciary Committee to take up in the context of comprehensive immigration reform, and look forward to working further with you to address additional acute concerns:

1. Enhancing Law Enforcement’s Ability to Enlist Help from Crime Victims.

For the third year in a row, 10,000 crime victims and their children have received U visas, exhausting the annual cap (set by Congress in 2000) before the end of the fiscal year.¹ Tens of thousands of law enforcement officials across the country in the years since the U visa was established have been helped by noncitizen victims of crimes who bravely came out of the shadows to report crimes and assist in investigations and prosecutions, helping enhance victim and community safety and hold all perpetrators accountable. These victims have risked brutal retaliation from abusers and perpetrators, but have been reassured by the U visa that they at least might be protected from deportation. USCIS Director Alejandro Mayorkas has stated that, “the U-visa is an important tool aiding law enforcement to bring criminals to justice. At the same time, we are able to provide immigration protection to victims of crime and their families. Both benefits are in the interest of the public we serve.”²

The U visa and T visa (for victims of trafficking) are essential tools for combating crime and improving community outreach and policing, getting perpetrators off the streets and making not only the immigrant victims upon whom they prey, but also the whole community, safer.³ For this reason, Congress should strengthen the U and T visa programs through comprehensive immigration reform, empowering more victims to come forward by encouraging law enforcement in their use of T and U visa certifications and expanding the number of U visas available on an annual basis. More visas are needed, precisely because the program is working as intended, to encourage immigrant help-seeking and crime-reporting, and perpetrator-accountability. In the T-visa context, too few visas are being granted to this vulnerable population, and Congress needs to look seriously at reforming the T-visa application system to ensure that trafficking survivors are able to access and receive this important form of relief.⁴

2. Supporting Survivors’ Self-Sufficiency; Removing Dependence on Abusers and Other Vulnerabilities to Further Victimization

Currently, survivors of domestic violence, sexual assault and human trafficking are experiencing significant delays in the processing of their VAWA, U visa and T visa applications. For example, it can take upwards of 15-18 months for U.S. Citizenship and Immigration Services (USCIS) to adjudicate a VAWA self-petition.⁵ Such long waits for the adjudication of their cases, coupled with other debilitating constraints (a lack of access to work authorization or other financial supports, and lack of adequate access to public assistance, including public housing) can be devastating to survivors who face dire personal and economic hardship, and may possibly place them in the unconscionable position of having to return to violent homes. In fact, domestic violence is a leading cause of homelessness for women, as abusers are often the ones in control of financial resources.⁶ This issue is compounded for immigrant survivors who may not be eligible for financial supports or other resources

¹ On August 21, 2012, USCIS recently announced that the agency approved the statutory maximum of 10,000 petitions for U nonimmigrant status. USCIS. Press Release. USCIS Reaches Milestone for Third Straight Year: 10,000 U Visas Approved in Fiscal Year 2012, available at <http://www.uscis.gov/news>

² *Id.*

³ USCIS. “Information for Law Enforcement Officials-Immigration Relief for Victims of Trafficking and other Individuals” available at: [http://www.uscis.gov/USCIS/Resources/Humanitarian Based Benefits and Resources/TU_QAforLawEnforcement.pdf](http://www.uscis.gov/USCIS/Resources/Humanitarian%20Based%20Benefits%20and%20Resources/TU_QAforLawEnforcement.pdf)

⁴ For example in 2011, USCIS granted 557 T-visas were granted to survivors although 5,000 are available annually. See 2012 U.S. Department of State Trafficking in Persons Report, pg 362, available at: <http://www.state.gov/documents/organization/192598.pdf>

⁵ The processing time listed on USCIS website for I-360 VAWA self-petition at the Vermont Service Center is June 5, 2011, over a 1.5 year wait for adjudication of the application. <https://egov.uscis.gov/cris/processTimesDisplayInit.do>. Advocates among the signatories to this letter report VAWA self-petitions filed as early as December 2010 that are still pending.

⁶ Futures without Violence. “The Facts on Housing and Violence,” available at: http://www.futureswithoutviolence.org/userfiles/file/Children_and_Families/facts_housing_dv.pdf

to assist them and are economically dependent on abusers if they are ineligible for work authorization because of their lack of immigration status.

The profound ripple effects of processing delays and the inability to achieve self-sufficiency or access social safety-net supports can subject victims of crime to additional risks of violence, exploitation, and manipulation, including the loss of custody of their children,

For this reason, we urge Congress to address the lack of access to work authorization and other financial supports for VAWA, U and T visa applicants whose applications may be pending for a year or longer, and to remove other barriers to accessing critical resources to enable battered immigrants to escape violent homes.

3. Protection for Survivors of Gender-Based Violence Seeking Refuge in the United States

The availability of asylum in the United States for women fleeing gender-based persecution – such fundamental human rights abuses as domestic violence (severe, sustained and unaddressed by the authorities in their home countries), rape (including as a weapon of war), human trafficking, female genital mutilation, “honor” crimes, and forced marriage – urgently needs to be affirmed and the legal standards clarified. Women fleeing such human rights violations should have access to refugee protection.

Without clarity around gender-based asylum, women and girls around the country face inconsistent and adverse decisions on their applications, or lengthy adjudication delays and appeals – in fact, some of the women and their children whose very lives hang in the balance of the critical clarity we urgently seek have been left in limbo *for well over a decade*. Women and girls seeking asylum have often rejected cultural norms or practices (such as female genital mutilation or forced marriage) that make them unable to access help from their own families and communities, isolating them from the most common support and guidance systems available to other refugees or immigrants seeking protection in the United States and making their survival during prolonged adjudications that much more difficult and dangerous. Immigration reform must address this long-languishing field of law and ensure obstacles are removed to give women and girls the meaningful ability to access protection.

4. Survivors and Enforcement Efforts

We urge Congress to reject enforcement-related proposals that would create new obstacles, or exacerbate existing hurdles, for survivors of domestic violence, sexual assault, human trafficking and other violent abuses. Without adequate protections and supports for victims of crime, there will be a “chilling effect” on survivors, preventing them from accessing protections to keep themselves and their families safe and to seek justice for crimes committed against them.

Conclusion

We strongly support the Senate Judiciary Committee’s efforts to seek comprehensive immigration reform, and urge you to prioritize the need to protect immigrant women and their families from violence and exploitation.

SIGNED [List in Progress]

This statement was prepared by a national committee of leading experts on existing protections – and protection gaps – in US laws affecting refugee and immigrant women survivors of domestic violence, sexual assault, human trafficking, and gender-based persecution, including ASISTA Immigration Assistance, Casa de Esperanza: National Latin@ Network for Healthy Families and Communities, The Coalition to Abolish Slavery and Trafficking (CAST), National Immigrant Justice Center, National Immigration Project of the National Lawyers Guild, Tahirih Justice Center and the Washington State Coalition Against Domestic Violence.

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