

PRIORITY PRINCIPLES TO ADDRESS VIOLENCE AGAINST WOMEN IN COMPREHENSIVE IMMIGRATION REFORM¹

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As Congress considers how to meaningfully reform the nation's immigration laws and system, it has a special obligation to safeguard and enhance protections for immigrant survivors of domestic violence, sexual assault, human trafficking and other abuses. Immigration reform is critical to help prevent vulnerability to abuse and exploitation. Unfortunately, despite current humanitarian provisions of US immigration law intended to reduce these vulnerabilities, many obstacles to immigrant survivors' access to safety and justice still remain.

Leading national experts and advocates for immigrant survivors of domestic violence, sexual assault, human and human trafficking urge members of the House of Representatives to endorse and apply the following principles so that immigrant survivors of violence are protected in immigration reform.

1. Include an earned pathway to legal status, with the possibility of citizenship in the future, to decrease the vulnerability of undocumented immigrants in the U.S. to abuse and exploitation.

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. Indeed, many immigrant women find themselves in abusive or exploitative situations due to their lack of immigration status. For example:

- **Increased risk of violence in the home.** Immigrant victims of domestic violence are frequently threatened with deportation by their abusers, increasing their reluctance to seek help from the authorities or services.
- **Increased vulnerability to losing their children.** Undocumented individuals face an ongoing threat of deportation and for many with U.S. citizen children, this could mean separation from their children, who would likely be forced to live in foster care or with an abuser.
- **Increased exploitation in the workplace** is a reality for many undocumented individuals, who often face poor working conditions, sexual abuse and harassment, and wage theft because they cannot obtain work authorization.

2. Safeguard abused dependent spouses and children.

If abused immigrants rely on a spouse or parent for their own legal status, they should be provided with an opportunity to independently petition for legal status rather than have to choose between deportation and continued abuse.² For example:

- **Ensure that any path to legalization also includes protections for dependent spouses and children in cases of abuse.**
- **Protect abused spouses and children of nonimmigrant visa holders** (those who are here for temporary work or education purposes) so that they need not remain in abusive relationships to maintain their immigration status for the same time period as the principal visa holder.

¹ The national committee of leading experts on existing protections – and protection gaps – in US laws affecting immigrant women survivors of domestic violence, sexual assault, and other gender-based human rights abuses that prepared this document includes Americans for Immigrant Justice, ASISTA Immigration Assistance, Casa de Esperanza: National Latin@ Network for Healthy Families and Communities, Immigration Center for Women and Children, Minnesota Coalition for Battered Women, National Employment Law Project, National Immigrant Justice Center, Tahirih Justice Center, and the Washington State Coalition Against Domestic Violence.

² Congress has a history of recognizing pathways for abused immigrants who may rely on abusive spouses and parents for their status. INA 101(a)(51) broadly defines a Violence Against Women Act (VAWA) self-petitioner as an abused individual, or child of an individual eligible for different types of relief on the basis of having a qualifying relationship with a US citizen, legal permanent resident, or a principal applicant for relief (e.g., NACARA and Cuban-adjustment Act principals), and having suffered battery or extreme cruelty.

3. Support survivor self-sufficiency and remove vulnerabilities to further victimization.

- **Improve and protect survivor access to critical safety-net benefits** to help survivors and their children avoid the choice of remaining with their abusers or becoming homeless, and to enable them to pursue a better path to safety and stability. **Furthermore, Congress should be mindful about how efforts to bar, limit, or penalize accessing safety-net benefits could be detrimental to survivors and undermine their ability to leave abusive situations.**
- **Grant employment authorization documents (EADs) to VAWA self-petitioners, U visa and T visa applicants who currently struggle to survive during the long pendency of their applications.** Due to lengthy delays in the adjudication of these applications (**up to 16 months or longer**) and lack of access to financial resources, survivors face additional risks of violence, exploitation, manipulation, and trauma.

4. Establish policies that encourage immigrant survivors of violence to come forward without fear and retaliation.

- Law enforcement agencies nationwide have seen the benefits of adopting community policing strategies in order to work with the public they serve to address and prevent common problems. **Increased entanglement with law enforcement and immigration enforcement weakens these efforts** by undermining the trust and cooperation with immigrant communities that is essential to community policing, diverting scarce resources and detracting local police from the core mission to create safe communities, and driving victims further into the shadows.³
- Similarly, **expanding grounds of inadmissibility, ineligibility or deportability for domestic violence, without adequate humanitarian waivers, can actually have a negative impact on victims** since abusers often use the criminal legal system against their victims as a way to further misuse, exploit, and harm their victims.
- Communities that support survivors of violence, such as churches and shelters, **should not be criminally penalized for or discouraged from** being good Samaritans who feed, house, and protect vulnerable undocumented immigrants.

Congress should also look for ways to **proactively protect vulnerable immigrant populations** by:

- **Strengthening the U visa program by increasing the number of U visas annually available, from the current 10,000 annual cap to at least 18,000.** Congress envisioned the U visa as a powerful tool for law enforcement: to promote public safety by encouraging immigrant victims to come forward, report crimes, and cooperate with law enforcement in investigations and prosecutions.
- **Including child abuse and elder abuse as U visa qualifying crimes** to protect these already vulnerable populations from abuse, and to promote reporting and prosecutions.

5. Immigration reform should include measures to protect women and girls fleeing gender-based violence abroad and seeking refuge in the United States.

- **Improve protections for all asylum-seekers** through critical reforms supported by leading national refugee and asylum advocacy organizations, so that victims of persecution are not returned to face violence and torture and so that their cases are adjudicated fairly.
- **In particular, eliminate the asylum-filing deadline.** A one-year filing deadline currently applies to all asylum-seekers but particularly impacts women fleeing gender-based persecution (like female genital cutting, forced marriage, or “honor” violence), who often do not know that they could be eligible for asylum, let alone that there is a time limit to apply.

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³ The Major Cities Chief's of Police Association stated these concerns in its 2013 Immigration Policy Statement, which can be found at https://www.majorcitieschiefs.com/pdf/news/2013_immigration_policy.pdf