

February 4, 2013

Dear Majority Leader Reid and Senators:

**The undersigned groups that serve and advocate on behalf of victims of domestic violence, sexual assault, dating violence, and stalking, urge you to reject amendments to the reauthorization of VAWA (S. 47) that actually threaten to harm those victims:**

These provisions to which we object are:

- (1) **Amendment \_\_\_\_\_**, which creates a new “aggravated felony” for any domestic violence conviction, resulting in deportation with no possible waiver; and
- (2) **Amendment \_\_\_\_\_** which allows hearsay information untested in a criminal court to be presented as evidence to establish deportability in immigration court proceedings.

#### **1. Amendment X is harmful to victims**

The amendment makes even misdemeanor convictions for domestic violence-related offenses, including those with no actual violence involved, “aggravated felonies.” An aggravated felony means deportation with no possible waiver. There are no exceptions from deportation for aggravated felonies, even in cases where the individual convicted was not the primary aggressor and acted in self-defense, or is a long-term legal resident whose spouse or children do not want him/her deported.

#### **This Amendment Will Discourage Victims from Seeking Help from Law Enforcement**

This amendment creates a chilling effect on seeking help from the legal system by discouraging victims from contacting law enforcement for help with domestic violence if they know the abuser will be deported with no possible waiver. This decrease in crime reporting will lead to communities that are less safe and in which victims are more isolated.

#### **Victims and their Children will Lose Access to Financial Support**

Many US citizens are married to immigrant spouses. By automatically deporting those immigrant spouses without looking at the specific circumstances, this sweeping amendment will also punish the US citizen spouses and their children. This amendment will mean loss of child support and spousal support, increasing the burden on public assistance and human service programs.

#### **This Amendment Will Result in Victims Being Deported**

Unfortunately, it is not uncommon for immigrant victims of domestic violence to be arrested along with or instead of the real abuser, when the police respond to a domestic violence incident and cannot sort out who was the primary aggressor and who was acting in self-defense, or when the abuser lies to accuse the victim. Language and cultural barriers, fear of

the abuser and the authorities, confusion, intimidation, a lack of awareness of rights, and a lack of access to advocates and other resources, all may prevent an immigrant victim from being able to communicate what really happened to law enforcement, resulting in the abuser obtaining the victim's arrest and prosecution. Once in custody and/or facing trial, and desperate to be released and reunited with their children, these same factors – combined with poor legal counsel, particularly about the immigration consequences of criminal pleas and convictions – will likely lead to deportation of wrongly accused victims who may have pled to or been unfairly convicted of domestic violence charges.

**2. Amendment \_\_\_\_\_violates due process, adversely affects domestic abuse survivors, and will create serious backlogs in both criminal and immigration courts. .**

**This Amendment Violates Fundamental Due Process**

A long line of U.S. Supreme Court cases during the past century have held that due process requires that deportability must not be based on evidence beyond an official record of criminal conviction. This amendment allows an individual to be made deportable based on evidence beyond an official record of criminal conviction. It will have sweeping effect, potentially affecting cases where the offenses are relatively minor and otherwise would not even warrant jail time for the abuser.

**This Amendment Will Result in Victims Being Deported**

Domestic abuse survivors, in particular those who are limited English-speaking or face barriers to accessing advocacy services, are sometimes arrested and convicted of minor offenses for defending themselves in domestic violence cases.

**This Amendment Will Increase Trauma for Many Victims**

In addition, this amendment will create additional hurdles for domestic abuse survivors in state criminal court proceedings. Currently most criminal domestic violence cases are settled via plea bargains, thus sparing victims from having to testify against their abusers in open criminal court and leading to faster dispositions of cases. This enables victims to have psychological closure and can also give them practical support. If alleged perpetrators cannot know in advance the immigration consequences of a plea bargain, because their deportability could hinge on evidence well beyond whatever they plea to, many more will proceed to trial to take a shot at an acquittal. Domestic violence victims, many of whom are today spared further trauma through guilty pleas, will either be compelled to testify against their abusers or risk having the criminal cases dismissed.- If the abuser is deported, the victim will be denied the opportunity for child or spousal support.

As a diverse coalition of organizations serving and advocating on behalf of victims of domestic violence, sexual assault, dating violence, and stalking, many of whom are immigrants, we urge you to reject these immigration amendments, which threaten to harm domestic violence victims. Please do not hesitate to contact Grace Huang of the Washington State Coalition Against

Domestic Violence (206) 389-2515 x 209, or [grace@wscadv.org](mailto:grace@wscadv.org) for further information regarding these or related concerns.

Sincerely,

Advocates for Basic Legal Equality

Apna Ghar

Acorn Outreach

African Services Committee

Alaska Institute for Justice

American Immigration Lawyers Association

American Jewish Committee

Andrea Ramos, Southwestern Law School, Immigration Law Clinic

Annunciation House Inc.

Arizona Coalition Against Domestic Violence

Artemis Justice Center

Asian Pacific Islander Institute on Domestic Violence

ASISTA Immigration Assistance

Barbara Hines, Immigration Clinic, University of Texas School of Law

Barrier Free Living Family of Companies

California Partnership to End Domestic Violence

Casa de Esperanza: National Latin@ Network for Healthy Families and Communities

Casa De Proyecto Libertad

Catholic Charities of Fort Worth

Catholic Charities of the Archdiocese of Chicago

Catholic Charities of the Archdiocese of Newark (New Jersey)

Center Against Domestic Violence

Center for Pan Asian Community Services, Inc.

Clinical Law Office University of Maryland Carey School of Law

Colorado Coalition Against Sexual Assault

Community Legal Center

Community Legal Services in East Palo Alto

Connecticut Legal Services

Domestic Abuse Intervention Program

DREAM Activist Virginia

East Bay Sanctuary Covenant

Florence Immigrant & Refugee Rights Project

Florida Coastal Immigrant Rights Clinic

Futures Without Violence

[Gangashakti.org](http://Gangashakti.org)

Good Shepherd Services

HAVEN

Hawaii State Coalition Against Domestic Violence

HIAS Pennsylvania  
Human Rights Initiative of North Texas  
Idaho Coalition Against Sexual & Domestic Violence  
Immigrant Defense Project  
Immigrant Legal Resource Center  
Immigration Center for Women and Children  
inMotion, Inc.  
Justice For Our Neighbors - Nebraska  
Kansas Coalition Against Sexual and Domestic Violence  
Kentucky Domestic Violence Association  
Latin American Association, Inc.  
Laura F. Bachman, Boesche Legal Clinic, University of Tulsa College of Law  
Legal Aid Service of Collier County  
Legal Momentum  
Lutheran Immigration and Refugee Service  
Lutheran Social Services of New England  
Michigan Coalition for Immigrant and Refugee Rights  
Mil Mujeres  
Missouri Coalition Against Domestic and Sexual Violence  
Moloka'i Community Service Council  
Mujeres Latinas en Acción  
Nassau County Coalition Against Domestic Violence  
National Alliance to End Sexual Violence  
National Center for Transgender Equality  
National Center on Domestic Violence, Trauma & Mental Health  
National Coalition Against Domestic Violence  
National Coalition for LGBT Health  
National Coalition of Anti-Violence Programs  
National Congress of American Indians  
National Domestic Workers Alliance  
National Immigrant Justice Center  
National Immigration Project of the National Lawyers Guild  
National Latina Institute for Reproductive Health  
National Network to End Domestic Violence  
National Organization for Women  
National Resource Center on Domestic Violence  
New Mexico Asian Family Center  
Northwest Immigrant Rights Project  
Ohio Domestic Violence Network  
OneAmerica  
Oregon Coalition Against Domestic & Sexual Violence  
Political Asylum/Immigration Representation Project

Public Justice Center  
Refugio del Rio Grande  
Sex Workers Project at the Urban Justice Center  
Sierra County Victim Assistance Unit  
Student Action with Farmworkers  
Tahirih Justice Center  
The Coalition to Abolish Slavery & Trafficking  
The Reformed Church of Highland Park, NJ  
Unid@s, The National Latin@ LGBT Human Rights Organization  
Urban Resource Institute  
Vermont Immigration and Asylum Advocates  
Violence Intervention Program  
Virgil Wiebe, Director of Immigration Law Clinic, University of St. Thomas School of Law  
Virginia Poverty Law Center  
Virginia Sexual and Domestic Violence Action Alliance  
Voces Latinas  
Washington State Coalition Against Domestic Violence  
Who Is My Neighbor? Inc.  
Wisconsin Coalition Against Domestic Violence  
Wisconsin Coalition Against Sexual Assault  
Women Helping Women  
Women's Advocate  
Worker Justice Center of New York  
YWCA USA