

HER JUSTICE  POLICY PLATFORM

# Her Justice Policy Agenda

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HER  JUSTICE  
Shift the Power



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## **Mission**

**Her Justice's policy work is informed by the lived experience of our clients — women living in poverty whose livelihood and well-being are often determined by the civil justice system. We work to reform this system such that it produces the most favorable outcomes for women like our clients, through processes that are as equitable, empowering, and as efficient as possible.**

Along with the impact of gender and socioeconomic status, our policy work focuses on how the racial and ethnic identities and immigration status of our clients — most of whom are Black and brown women, and more than half of whom are foreign-born — as well as their religious and economic identities, inform and impact their experience with the civil justice system — as in some cases, whether they choose to engage with the legal system in the first place.

We know that different communities experience different barriers to justice and legal assistance based on a history of racial discrimination, and that parts of the legal system that serve impoverished communities are often under-resourced. We believe the challenges facing our clients in securing critical legal help in the under-resourced Family Courts or the overly punitive immigration system, for example, stem from the institutional bias and class inequity that pervade the foundation and operations of the legal system. Yet we also believe that the law can be a powerful tool of change.

Our policy work is built on that understanding, so it strives both to assist the individuals who move through the system and to dismantle the systemic inequities that impact all litigants. In advancing reforms, we are committed to uplifting solutions that come from the communities that are disadvantaged by the legal system. We are dedicated to working as allies to others that are doing policy and advocacy work that impacts our clients and their communities, including reform work focused on systems beyond the civil justice system — like the criminal legal system — with which our clients must interact to achieve stability and safety. We are committed to policy reform and advocacy that centers the intersection of these issues and clients' experience of them, and that challenges tradition and promotes innovation.

Our areas of focus for policy reform align with core areas of our direct services: immigration, child support, divorce, and intimate partner violence.

**Note:** *In our policy agenda and in our work, we describe our clients and others who have experienced intimate partner violence (IPV) as “victims” and “survivors.” We know self-determination is critical for many of our clients, particularly in describing the experience of abuse. In using both terms, we acknowledge that the best and most accurate description must come from the individual herself.*



## **Immigration**

Access to essential opportunities in the U.S. is dependent on immigration status. We work to reform the system so that the greatest number of immigrant women can obtain and preserve the best possible status, through a process that prioritizes their safety and dignity.

### Background:

There are 3.1 million immigrants living in New York City, and immigrant women represent over half of the clients of Her Justice. As currently structured, the U.S. immigration system is not meeting the needs of women like our clients.

The immigration process is arduous and unpredictable, and immigrants are often unable to work or access essential benefits while they await a decision on their status. For millions of undocumented immigrants or prospective immigrants, there is no path to legal status at all.

For our immigrant clients who are victims of gender-based violence, the obstacles to attaining legal status and personal safety are especially formidable. There are lengthy delays in the process and many requirements that victims must meet, including interacting with unfamiliar justice systems, and the limited number of visas available to crime victims does not match the need.

Finally, the inhumane treatment of all immigrants — at the border, in detention centers, in court, and in our public discourse — creates fear and alienation where there should be security and belonging.

## **OUR POLICY AGENDA SUPPORTS:**

### **A fair and efficient pathway to status for all survivors of gender-based violence:**

- Reauthorizing and strengthening the Violence Against Women Act (VAWA) which provides essential protections and services for women like our clients.
- Lifting the cap on U-Visas, which are specifically designed for victims of crime, but do not match the need (there are currently 10,000 U-Visas granted each year, leaving over 170,000 individuals in pending status).
- Broadening the requirement that survivors of gender-based violence must cooperate with law enforcement to obtain U- and T-Visas (for victims of human trafficking) to acknowledge that undocumented survivors seek safety in many different ways.
- Allocating appropriate federal resources to adjudicate relief for survivors swiftly and fairly, including an adequate number of adjudicators with U.S. Citizenship and Immigration Services to handle immigration applications.



**Ensuring that more immigrants, regardless of their status, have the ability to work legally and safely, as quickly as possible:**

- Providing work authorization at the earliest possible stage of the immigration process.

**Ensuring that more immigrants, regardless of their status, have access to the essentials of life, as quickly as possible:**

- Providing equal access to core services like housing, healthcare, education, and welfare, regardless of immigration status, for example, through programs like the New York City Care plan, which provides healthcare to undocumented individuals, and the New York State DREAM Act, which gives undocumented students access to education grants and scholarships.

**Policies and practices in immigration enforcement that prioritize the safety of immigrant survivors and their families:**

- Victim-centered policies that encourage prosecutorial discretion to facilitate access to justice, such as the U.S. Immigration and Customs Enforcement (ICE) Directive "Using a Victim-Centered Approach with Noncitizen Crime Victims."
- U.S. Department of Homeland Security policies and practices that are trauma-informed, humane and equitable in centering the marginalized communities principally impacted by immigration enforcement.

**OUR POLICY AGENDA OPPOSES:**

**Policies, practices, and laws that unfairly criminalize survivors of gender-based violence with pernicious immigration consequences:**

- Laws that criminalize low-level and non-violent conduct that are disproportionately applied against low-income people, people who identify as LGBTQI and people of color, and that have harmful consequences for undocumented immigrants.
- Immigration authorities' application of laws and policies to harm immigrants, including giving undue weight to state law criminal charges in adjudicating immigration applications even after those criminal charges have been dismissed.

**Violations of due process and international law:**

- Expedited removals in which immigrants are deported without hearings.
- The lack of access to counsel for immigrants in removal proceedings.



### **Threats to the safety and dignity of immigrants and their families:**

- The detention of immigrants based on their status as undocumented individuals.
- U.S. Department of Homeland Security actions that penalize immigrants who do not pose a threat to public safety.

### **Laws and policies that prevent low-income immigrants from accessing lawful status:**

- Increased fees for immigration petitions, and restrictions on fee waivers.
- Deeming immigrants ineligible for legal status based on their receipt of public benefits.
- Adjudicators' strict application of regulations that require property, income, or assets to prove eligibility for immigration benefits — for example, requiring joint bank statements to prove a "good faith" marriage for immigration status —and that disadvantage low-income immigrants, where regulations allow for other types of proof.



## **Child Support**

Receiving child support provides essential financial security for women who are caring for their children on their own. We work to reform the system so that it delivers the most child support parents can afford, through a process that is straightforward and fair.

### Background

Nationwide, 80 percent of single-parent families are headed by women (custodial mothers). The poverty rate for those families is almost twice the poverty rate for families headed by custodial fathers. Child support is critical for custodial mothers, especially those living in poverty, as it can represent more than half of their income. Yet, in 2017, only 46% of custodial parents who were supposed to receive child support received all the support they were owed.

Before the COVID-19 pandemic, in New York State, there were close to 200,000 filings in court for child support each year and helping custodial parents secure child support is one of Her Justice's core service areas.

For parents who are W2 wage earners or where income is undisputed, the process should be straightforward. But the current system is unnecessarily complicated and beset with delays.

For more complicated child support cases (involving non-W2 income streams or disputed income), the process is even slower and more difficult to navigate, leading to awards that may not accurately reflect the non-custodial parent's actual income or meet the needs of custodial parents and their children.

In all types of child support cases, enforcement is a problem, further delaying or altogether denying essential support for custodial parents and their children.

The New York child support system remains opaque to many parents who navigate it without legal representation (more than 90% of parents) and even attorneys find themselves confused about the functions and purview of the courts and the child support agencies. The halting of Family Court operations and slow reopening for support cases during the COVID-19 pandemic highlighted challenges that existed in access to this critical relief and the courts' processing of these cases and made clear the need for reform. Yet a general lack of transparency from the courts around the nature of cases and their outcomes also makes it challenging to identify the most impactful opportunities and solutions for reform.

### **OUR POLICY AGENDA SUPPORTS:**

#### **Providing an administrative alternative to the courts for resolution of straightforward child support matters:**

- Establishing an administrative conference process for child support matters involving parents who agree upon or have undisputed sources of income, including traditional W2 wages, without requiring legal representation or a court appearance, and at the same time maintaining Family Court funding and resources for judicial process where needed in disputed cases.



### **Increased access to representation in child support cases where parental income is disputed:**

- Additional New York State and City funds earmarked for legal services and pro bono legal representation in non-W2 child support cases.

### **Improved enforcement of child support orders to ensure custodial parents receive the awards they were promised, and in a timely manner:**

- The Child Support Collection Unit, which prioritizes collecting child support awards paid directly back to the government, should improve its enforcement efforts to recoup awards payable to custodial parents.
- The Child Support Collection Unit should be reachable and responsive to the needs of custodial parents seeking payment for their awards.

### **Additional benefits for custodial parents as they move through the child support process:**

- Funding for programming such as job training, job placement, and childcare.

### **Increased transparency on the part of the courts regarding child support case characteristics and outcomes to ensure that the system is achieving its goals:**

- The courts should collect and publicly release a wide range of information that would be helpful to policymakers, including demographic information for parties, duration of cases, number of court appearances, rate of legal representation, and award outcomes.

## **OUR POLICY AGENDA OPPOSES:**

### **Linking child support enforcement to child custody or access to children:**

- Court decisions and child support agency efforts to enforce or collect child support orders should not be linked to child custody or access to children without determining whether this is responsive to custodial parents' needs.

### **Child support awards that do not accurately reflect the non-custodial parent's ability to pay:**

- When insufficient awards are granted, custodial parents and their children are denied access to their fair share of support.
- When outsize awards are granted, the non-custodial parent is unable to pay, the custodial parent is deprived of access to child support, and the integrity of the system is called into question.





## **Divorce**

The legal divorce process should provide a pathway to independence. We work to reform the system so that when women seek divorce, they achieve autonomy and financial stability through a process that is as easy as possible.

### Background:

When families have separated, the legal divorce process settles debts, divides assets, and establishes a predictable future for children. But, for women living in poverty, the current process in New York is unnecessarily complicated and time-consuming, often stripping agency from the parties seeking divorce, and leaving women worse off financially.

There are typically more than 50,000 divorces in New York every year, and helping women secure a divorce is a core service offered by Her Justice. As currently structured, the divorce process is not meeting the needs of women like our clients.

In divorces where there is legal disagreement (contested divorce), legal representation helps improve the efficiency of the process and fairness of the outcome. Yet many women must navigate this difficult system on their own.

For all divorces, there is a lack of publicly available data on the nature and dynamics of cases and their outcomes. The courts release very little information, making it difficult to identify the most promising reforms.

## **OUR POLICY AGENDA SUPPORTS:**

### **Increased access to representation in cases involving dispute or disagreement:**

- Additional New York State and City funds earmarked for legal services and pro-bono legal representation in divorce cases for women living in poverty.

### **A simplified court process for resolving uncontested divorces and those involving children or financial issues:**

- In uncontested divorce cases where there is a child support or child custody order already in place or an agreement between the parties, the court should not re-litigate the issues as part of the divorce proceeding, unless requested by a party with a valid legal basis.
- A simplified court structure in New York for resolving divorce and family law issues so that the process and outcomes are efficient and consistent for the benefit of litigants and courts alike.



**Increased transparency on the part of the courts regarding case characteristics and outcomes:**

- The courts should collect and publicly release a wide range of information that would be helpful to policymakers, including demographic information for parties, duration of cases, rate of legal representation, and financial and child-related outcomes.

**OUR POLICY AGENDA OPPOSES:**

**Barriers that undermine self-determination by making it harder than necessary to obtain a divorce:**

- Burdensome New York State requirements that serve no purpose, like having to publish a printed notice of divorce, rather than allowing for more user-friendly options such as notice via email or through social media.
- Overly complicated and repetitive divorce forms, containing unnecessarily technical and legal language and requesting information beyond what is necessary for the court to fulfill its statutory obligations.

**Rules or regulations that restrict choice for women seeking divorce:**

- For example, proposed New York State legislation that would limit agency, such as requiring plaintiffs to file for divorce in their county of residence, removing the choice of where to file.



## **Intimate Partner Violence**

Intimate partner violence (IPV) has devastating and lasting consequences for those who experience it. We work to reform the civil justice system, and its points of intersection with the criminal legal system, so that survivors of IPV obtain the greatest possible protections and receive remedies that are responsive to their experience of a range of harms.

### Background

Amongst Her Justice clients, 80% are survivors of IPV — a pattern of behaviors used by one partner to maintain power and control over another partner in an intimate relationship. Many of our clients — in particular those we assist with immigration applications — have also experienced other forms of gender-based violence, such as sexual assault and trafficking.

Our clients' experience of intimate partner and gender-based violence informs nearly every aspect of their lives, including their ability to remain financially stable and maintain housing and employment, along with their interactions with the courts and the immigration system. Yet, the courts and agencies within the civil justice system often fall short in addressing IPV and its impact on survivors' lives.

Many laws addressing IPV, including its very definition under New York State law, were written with a primary focus on physical harm. The focus on physical harm diminishes the recognition of other forms of abuse, for example, financial abuse — where an abuser prevents an individual from working, controls their supply and use of money, and incurs household debt without the victim's knowledge — which affects more than 99% of survivors. Even where laws and policies have been enacted or amended to recognize the all-encompassing nature of IPV, the civil law overall lacks a consistent recognition of the issue.

When abusers engage in harmful behavior in court that delays litigation, undermines victims' credibility, and violates victims' privacy, jurists fail to hold abusers accountable when they refuse to impose sanctions for frivolous or vexatious litigation in the family law context, or refuse to take into account bad faith in fashioning case remedies. Survivors can experience this lack of procedural justice as an extension of the abuse they suffered in the relationship. In all such instances, the greatest harm can be diminishment of survivor agency in the legal process and outcomes.

Our policy work also addresses barriers our clients face in other government systems, namely the criminal legal system, with which many must interact as survivors of IPV seeking help. Since the legal system prioritizes criminal and law enforcement responses to abuse, many remedies are available to survivors only through those channels, for example, by reporting abuse to police or engaging with the criminal courts to keep abusers away. Yet many survivors do not feel safe engaging with the criminal system, whether because of past harmful experiences or general mistrust, or they may not want their abuser to be incarcerated or deported as a result of a criminal conviction. Many survivors are forced to engage in the criminal system when the police are called by others; this is another example of survivors' diminished agency in the traditional legal process. That access to civil justice remedies for IPV often depends on or is linked to survivors' engagement with the criminal system perpetuates the primacy of traditional criminal legal solutions to this issue and the harm that can bring to individuals and communities.



## **OUR POLICY AGENDA SUPPORTS:**

### **Policies that center survivor experience in crafting legal remedies for and system responses to intimate partner violence:**

- Courts' efforts to improve survivors' perception and experience of fairness in the legal system by prioritizing the procedural justice values of dignity, litigant voice in and understanding of the legal process, and judicial neutrality, to help reduce trauma.
- Efforts to root out racism and gender bias in the courts, including increasing diversity among judges, conducting anti-bias training for court personnel and judges, and ensuring accountability for those engaging in discriminatory practices.
- Examining and reconsidering the primacy of a traditional law enforcement response to incidents of IPV and exploring and innovating alternatives, including reallocation of resources to mental health and other social services and community-based solutions in lieu of policing and carceral solutions.
- Aligning legal advocacy with policies in other sectors — economic, health, international human rights — to help ensure more equitable protections and remedies for survivors and work toward prevention of IPV.

### **The reauthorization and expansion of the Violence Against Women Act (VAWA):**

- At a minimum, continued reauthorization of VAWA, the landmark federal legislation that provides a range of protections against and responses to violence against women and girls, at its current scope and capacity.
- Using each reauthorization opportunity to increase funding and to expand the scope of services for all victims of gender-based violence.

### **Laws that protect victims of intimate partner violence from discrimination in housing and employment:**

- Housing protections for victims of intimate partner violence so that they are not evicted or otherwise penalized for IPV-related police visits, or other symptoms of abuse (noise, property damage, etc.).
- Workplace protections so that IPV victims are not fired or otherwise penalized for reasons related to their victimization (need to attend court, abusive partner disrupting the workplace, etc.).

### **Ensuring that the civil justice system addresses the economic consequences of intimate partner violence when it provides legal remedies:**

- A broad definition of IPV/domestic violence under State and City law that encompasses the range of abuse that survivors experience, including physical, emotional, and financial harm, and consistent incorporation of this definition into relevant laws, along with education of jurists about the application of any such law.



- Holding abusers accountable for financial abuse in civil cases, including when granting orders of protection in Family Court and in determining financial relief in divorce and child/spousal support proceedings, and amending the law as needed to grant civil courts adequate authority to fashion remedies for financial abuse.
- Providing more options for debt relief for survivors of IPV, including recognizing in law the defense of coerced debt (in addition to the existing defense of identity theft) to legal actions by creditors against spouses who have incurred debt because of financial abuse in marriage.

#### **Ensuring that abusers in New York State are separated from their firearms:**

- The risk of serious bodily harm, including death, increases when abusers have access to firearms. State law should be expanded so that all abusers subject to criminal and civil orders of protection are prohibited from possessing guns and required to relinquish any guns already in their possession.
- Consistent ordering of firearm prohibition and relinquishment and investigating compliance on the part of the abuser.

#### **OUR POLICY AGENDA OPPOSES:**

##### **Any requirements that intimate partner violence victims must present police or court records to prove their victimization:**

- IPV victims should be able to access key protections and services by providing an affidavit as proof of victimization, as opposed to more burdensome requirements that they produce records (e.g., court or police records) that are outside of their possession and difficult to obtain.

##### **The courts' failure to act when abusers manipulate system processes to harm a victim:**

- Courts must prioritize holding abusers accountable for engaging in retaliatory and frivolous litigation that causes undue delays or violates a victim's privacy, including imposing sanctions for frivolous or vexatious litigation in the family law context, and taking into account bad faith in fashioning case remedies.