



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.



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.