

IT'S ABOUT POWER: CCADV ISSUE BRIEF ON THE CONNECTION BETWEEN DOMESTIC VIOLENCE AND IMMIGRATION



The lively debates surrounding the perceived immigration crisis in the state of Colorado and the U.S. have been hard to miss. In Colorado, the issue has prompted large scale demonstrations, raids of homes and workplaces by local, state and federal officials, and new policies at every level of government aimed at ending illegal immigration. It is hard to turn on the television or open a newspaper without finding evidence of our state's grappling with recent immigration. At the heart of the immigration debate though are people. Our treatment of these newcomers reflects our values.

Since 1978, Colorado Coalition Against Domestic Violence (CCADV) has represented domestic violence programs and advocates across the state and the clients they serve. The Coalition is dedicated to the elimination of domestic violence in all of its forms. Our philosophy includes the opposition to violence as a means of control. It supports equality in relationships and helping women assume power over their own lives. "We must work towards ending racism, homophobia, anti-Semitism, classism, and oppression of all traditionally silenced groups within the domestic violence movement. These oppressions are perpetuated by the same systems that profit by violence against women and children and cannot be separated from the overall mission of the Coalition, for the oppression of one woman is the oppression of all women."¹

Immigration Law, Domestic Violence and VAWA

Immigration today is governed by a complex and broken system that has inadvertently created the oppression of men, women, and children. There are two ways to legally immigrate to the United States. One way is through employer sponsorship. The other is through family sponsorship by an immediate relative who has U.S. citizenship or lawful permanent residency². An immediate relative is defined in the Immigration and Nationality Act as a parent, sibling, spouse or child.³ The sponsor is responsible for filing a series of applications for the immigrant. If the sponsor is not able or willing to sponsor their relative, the relative is not able to gain legal status. This dependence on a sponsor leaves immigrants vulnerable to abuse. For this reason, the Violence Against Women Act (VAWA) provides legal remedies and protections to immigrants who are victims of domestic violence, sexual assault and trafficking to protect them from this power dynamic that frequently results in abuse.⁴

In 2005 Congress reauthorized the 1994 Violence Against Women Act. The VAWA was originally enacted in 1994 as part of the Violent Crime Control and Law Enforcement Act. Its purpose was and is to remove obstacles inadvertently imposed by immigration laws that prevent victims from safely fleeing domestic violence and prosecuting their abusers. It contains liberating legal protections for survivors of domestic violence.⁵ In creating a special lawful permanent residency, or green card, process for battered spouses and

¹ From the CCADV Website, ©2007 Colorado Coalition Against Domestic Violence. <http://www.ccadv.org/mission.htm>

² INA § 204(a), 8 U.S.C. § 1154(a); 8 C.F.R. § 204.1(a) (1). For a definition of lawful permanent residency *see* INA § 101(a)(20), 8 U.S.C. § 1101(a)(20) ("The term 'lawfully admitted for permanent residence' means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.").

³ *See* INA Sections 201(b)(2)(A)(i) and Section 203(a)(1), (2), (3), and (4).

⁴ Legal Momentum VAWA 2005 Immigration Provisions Fact Sheet dated December 18, 2005. Joanne Lin and Leslye Orloff. Posted at www.legalmomentum.org/issues/vio/vawa_immigration_provisions.pdf. Last viewed 1/8/08

⁵ The immigration provisions were only one component of VAWA; the legislation also provided for more emergency shelters and hotlines, and trainings for prosecutors, court officials, and police. VAWA resulted in better responses to domestic violence and sexual assault by the criminal justice system.

children of United States citizens and lawful permanent residents, lawmakers recognized that many victims of domestic abuse were unwittingly victimized by the immigration system as well. The VAWA battered immigrant process involves a “self petition,” so that the abuser is not involved at all in the petitioning process. VAWA also contains provisions that prohibit the government from releasing information about the existence of a VAWA immigration case to the abuser or others.⁶

In 2000, VAWA was extended immigration relief to immigrant victims of sexual assault, human trafficking, and other violent crimes who report their crimes to law enforcement.⁷ This legislation created the U visa for victims of crime and T visa for victims of human trafficking. A key goal of VAWA’s immigration protections is to cut off the ability of abusers, traffickers, and perpetrators to blackmail their victims with threats of deportation, and thereby avoid prosecution. Congress understood that in order to stop domestic violence, all victims need protection and assistance without regard to their immigration status.⁸

“While VAWA 1994 and 2000 made significant progress in reducing violence against immigrant women, there are still many women and children whose lives are in danger today. Many VAWA-eligible victims of domestic violence, sexual assault, child abuse, or trafficking are still being deported. Others remain economically trapped by abusers or traffickers in life-threatening situations.”⁹ VAWA 2005 has included some of these most needy victims, including incest survivors, trafficked person’s family members and elder abuse victims. However, new state laws have limited the effectiveness of VAWA 2005 and hampered the work of CCADV members.

Unfortunately, little attention has been given to the relevant historical, political and socio-economic contributions of immigrants to the United States. Along with their contributions, their humanity has been ignored.¹⁰ An oversimplification of the issues has occurred, resulting in the scapegoating of recent immigrants for social and economic problems that require broader and more complex solutions. Instead, government responses have focused on creating additional obstacles to immigrant integration into communities. This terrorizing of the immigrant community creates a greater risk of violence for all of us by making immigrants less likely to speak out when they are victims or witnesses to crime. What is needed is a complete and comprehensive immigration reform which treats immigrants with dignity, realizes the failures of the former immigration system, and promotes healthy families.

Experience of Immigrant Victims of Crime

CCADV wishes to draw attention to the increasing isolation of immigrant victims and the destruction of their families as a result of increases in local law enforcement of immigration law and reduction of help available to immigrant victims in Colorado. These new policies and the anti-immigrant rhetoric that fuels them create increasingly isolated immigrant families. This isolation is felt by immigrants regardless of their immigration status because many are not familiar with the law or have been lied to about what it says by their

⁶ See Section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), codified at § 8 U.S.C.1367 (1996), entitled “Penalties for Disclosure of Information.”

⁷ VAWA 2000, which contained improvements to the VAWA of 1994, was incorporated into the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), as Division B, Title V – Battered Immigrant Women. See VTVPA, Public Law 106-386, Oct. 28, 2000.

⁸ Legal Momentum Fact sheet, *Id.*

⁹ *Id.*

¹⁰ National Immigration Law Center statement as part of letter to continue healthcare for immigrant children. Posted at http://nilc.org/immspbs/cdev/ICHIA/immchildhealthcare_ltr_2007-12-12.pdf. Last viewed 1/8/08

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abuser. Women are suffering broken bones, other physical and mental injuries, and risking death at the hands of their abusers because of their fear.¹¹ These new laws have perpetuated a climate of violence and fear for victims.

Victims of intimate partner abuse and sexual violence often fear coming forward for reasons including but not limited to self-blame, anticipation of retribution by the perpetrator or his family, uncertainty that they will be believed and doubt that they will be able to escape the violence. For immigrant victims these reasons are compounded by social isolation, fear of deportation, lack of clarity about the roles of law enforcement, perpetrators' threats, withholding of documents showing legal status by perpetrators and an inability to get new documents because of Colorado laws on proof of identity. Many immigrant families are a combination of documented and undocumented individuals, which may account for a reluctance to report a crime if a victim/witness believes it may lead to a family member's deportation.^{12,}

Access to Services for Immigrants

Any policy that makes services more difficult to access creates prison walls as thick as concrete around the victim. With no place to go, there is no escape. Economic instability is the number one reason that victims return to their batterer.¹³ The provisions of HB 06-1023 as well as other laws have tightened the availability of services for immigrant victims who have not completed their VAWA, U, or T process to only emergency services.¹⁴ There is a frustrating lack of adequate resources to provide culturally and linguistically appropriate services which creates another barrier.¹⁵ Moreover, these victims do not receive proper healthcare treatment for injuries related to their assaults. This limitation and limitations on employment perpetuate a yo-yo cycle of violence that keeps immigrants as victims. This oppression goes against the mission of CCADV.

Local Law Enforcement of Immigration Laws

Policies that increase cooperation between local law enforcement silence the victim as effectively as any threats from their perpetrator. "Research has shown that immigrants are more likely to be victimized than other members of the general population. In particular, illegal immigrants are often afraid to report crime to local authorities, making them easy targets for those with criminal intentions."¹⁶ Immigrants in the United States come from different parts of the world. The majority now entering are from developing countries, where there is often corruption, brutality and ineffectualness in the enforcement of laws. They bring their perceptions regarding law enforcement with them, creating a general reluctance to seek law enforcement assistance. These tenets also influence crime underreporting within immigrant communities, particularly domestic violence, sexual assault and gang activities.¹⁷ Local law enforcement of immigration law exacerbates this negative perception and decreases reporting of domestic violence and other violent crime from immigrants.¹⁸ CCADV supports the recommendations of the ABA Commission on Domestic Violence's report on Local Police Enforcement of Immigration Laws and its Effects on Victims of Domestic Violence.¹⁹ The Coalition

¹¹ Anecdotal reports in 2007 were made to CCADV from local advocates in Aurora, Pueblo, and Greeley.

¹² Police Chief's Guide to Immigration Issues, p. 11. International Association of Chiefs of Police. July 2007

¹³ *Id.* at p. 28.

¹⁴ "Why Do Women Stay?" Family Violence Law Center, Posted at http://www.fvlc.org/gethelp_whywomenstay.html. Last viewed 1/8/08. CCADV 2006 Membership Survey showed inability to afford housing was the number one reason victims returned to abusers in 2006. Survey available from CCADV.

¹⁵ Codified at C.R.S. 24-76.5-101.

¹⁶ CCADV 2007 Member Survey.

¹⁷ Police Chief's Guide to Immigration Issues, p. 11. International Association of Chiefs of Police. July 2007

¹⁸ *Id.* at p. 21.

¹⁹ Local Police Enforcement of Immigration Laws and its Effects on Victims of Domestic Violence, p. 5 Gail Pendelton, ABA Commission on Domestic Violence, 2004. Posted at http://www.nationalimmigrationproject.org/DVPage/DVSA_CLEAR_Article.doc. Last reviewed 1/9/08.

¹⁹ *Id.*

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encourages local law enforcement agencies to implement sound policies that do not gag victims by asking them about their immigration status. Policies should also promote trust and cooperation between the immigrant community and officers. These policy advances will go far towards creating safer communities in Colorado.

Conclusion

The connection between CCADV's organizational mission and its support of immigrants is clear. CCADV is dedicated to the elimination of domestic violence in all of its forms and for all victims. CCADV represents the collective voice of anti-violence advocates and those who support a society free from violence and oppression. We advocate that each and every survivor, regardless of their immigration status, is treated with dignity and respect. Survivors should have full access to quality services that will ensure their long term safety. Survivors should not be re-victimized by the system while trying to escape or report crime, regardless of their immigration status. Restrictive or racially disparate immigration policies on the local, state and national levels should be repealed. These policies are counterproductive. We join with likeminded organizations to provide a statewide environment that will nurture members' local, state, and national efforts to stop domestic violence against this vulnerable population.²⁰

CCADV therefore opposes laws that cause the oppression and isolation of victims whether by creating additional obstacles to services, increasing proof of identity or lawful status requirements, or increasing cooperation between local authorities and Immigration and Customs Enforcement. The state coalition denounces anti-immigrant rhetoric that creates a climate of degradation, dehumanization, racism, or xenophobia towards immigrants. Together we advocate that each and every survivor, regardless of immigration status, be treated with dignity and respect and receive access to the resources and services that will help them set themselves free.

²⁰ ABA Commission on Immigration Report to the House of Delegates. Richard Peña, Chair. Feb. 2006. Posted at www.abanet.org/publicserv/immigration/107g_immigrant_victimsofcrime.pdf . Last viewed on 1/9/08.

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