Fighting Trafficking in Persons and Violence Against Women

July 18, 2011
International Visitor Leadership Program
Washington, D.C.

Leslye Orloff
Legal Momentum, Immigrant Women Program
www.iwp.legalmomentum.org
Web Library
Violence Against Women Act (VAWA) Goals

• Federal government role in acting to stop Violence Against Women
  – Domestic Violence (intimate partner violence)
  – Sexual Violence (assault, threats, harassment, rape)
  – Child abuse
  – Human trafficking (added in 2000)

• Improving law enforcement and prosecution response

• Enhance systems the promote victim safety
Enhance Systems that Promote Victim Safety

- Funding for governmental and non-governmental agencies
  - Shelters, rape crisis centers, victim services, counseling
  - VAWA, identity, location confidentiality
- Created national domestic violence & sexual assault hotlines
- Civil protection orders enforceable across state lines
- No mutual protection orders
- National protection order registry
- U-visa and T-visa
- National system of technical assistance providers
Improving Justice System Response

- Pro/mandatory arrest
- Predominant perpetrator in relationship
- Reduce dual arrest
- Evidence based prosecution
- Firearms
- Funding for domestic violence units in government agencies (police, prosecutors, courts, Department of Homeland Security)
- Federal crime of crossing state lines to commit domestic violence
Key Role of the DHS VAWA Unit

• For Immigrant Victims Addressing Deportation Risks Critical First Step
• VAWA funding led to development of model justice system programs that effectively serve victims
• In developing the VAWA Unit – DHS followed this enlightened model
• Successful VAWA unit meets dual goals
  – Granting VAWA immigration protection to abuse victims who qualify
  – Denying fraudulent applications
• Model for responsiveness to the needs of victims – good working relationships with victim advocates
What Could Battered Immigrants Expect for Help in 1993?

• Abusive spouses with legal immigration status had total control over their spouses and children
  – Keep victims from calling police or seeking help
  – Lock victims in abusive relationships
  – Avoid prosecution

• Immigrant victims had little access to help
  – No language accessibility to programs and courts in many communities
  – Some shelters turning away immigrant victims
    • Without legal status
    • Who did not speak English
Pre VAWA Help for Immigrant Victims

• Number nationwide of programs serving immigrant victims
  – Less than 50. (most in urban areas)
  – Most operating on a shoestring with little funding
  – Isolated from one another

• Most programs serving immigrant victims offering domestic violence services

• Immigration assistance available in some areas, but few options

• Virtually no access to family courts
  – protection orders
  – custody
Key Role of the National Network

• Founded by:
  – Legal Momentum/NOW Legal Defense
  – Family Violence Prevention Fund
  – National Immigration Project of the National Lawyer’s Guild

• Grown from 15 groups in 1992, to 25 groups in 1994, to over 3000 groups/individuals today
National Network to End Violence Against Immigrant Women

• 1991 National conference

• Grassroots groups
  – domestic violence
  – Sexual assault,
  – Immigration,
  – Women’s rights

• Prior to 1991 no coordinated voice in Washington for battered immigrants

• Change in leadership of domestic violence lobbying in D.C. -- opportunity
Collaborative Legislative Advocacy

- Battered Spouse Waiver – 1990
- Violence Against Women Act – 1994
- Carve outs and benefits access for battered immigrants in the 1996 Welfare and Immigration Reforms
- Access to Legal Services for Battered Immigrants – 1998
- Violence Against Women Act 2000
- Victims of Trafficking Protection Act 2000
- Funding for INS processing of domestic violence crime victim and trafficking cases 2001
- Violence Against Women Act of 2005
- International Marriage Broker Regulation Act of 2005
- Trafficking Victims Protection Reauthorization Act of 2008
Keys to Success

• History providing direct services
• Developing trust – honesty
  – Ability to compromise
• Good working relationships between
  – government and advocates
  – Understanding each other’s role and challenges
  – Creative problem solving
• Legislative drafting skills
• Developing coalitions
  – National Network on to End Violence Against Immigrant Women Immigrant Women
  – Freedom Network
  – Researchers, advocates, attorneys
  – Community based and Faith based
• Documentation of Need
Lobbying Approach

- Collaboration
- First meeting with staffers
- Domestic violence groups take the lead
- Immigrant rights groups provide technical support
- Documenting the need
  - Stories
  - Research
  - Technical assistance and training
- Countering anti-immigrant sentiment
- Grassroots role
- Remaining in the work after passage
Designed to Help All Victims

- Underserved populations
  - Communities of color
  - Disabled
  - Aliens
  - Limited English Proficient
  - Rural communities

- Immigration relief key component of legislation
- All parts of VAWA included all populations
Immigration Law Historically Gave:

- Spouses and Parents
- Control over the immigration status of
- Alien spouse and children
- Citizen or permanent resident controls
  - Whether to file
  - When to file
  - Whether alien family member can attain or keep legal immigration status
Dependence On Spouse For Legal Immigration Status

• Exacerbates:
  – Likelihood of domestic violence
  – Severity of the violence
  – Isolation of the victim from help

• Higher Risk When Abuser is a
  – Spouse; and a
  – Citizen
  – Lawful permanent resident
  – Lawful Immigrant Visa Holder
Threats About and Fear of Deportation: Primary Barrier

• Unaddressed blocks all access to
  – Victim services
  – Shelter
  – Health Care
  – Police
  – Justice system
• Role of lack of information about US legal and social services system
• Role of threats of deportation
• Affects both documented and undocumented immigrant victims
Victim’s Deportation Concerns

- Immigration related abuse/deportation
- Economic survival
- Family/children
- Fear of losing custody/access to children
- Power and control over victim’s immigration status
- Victim believes that if he gets deported she has to go with him
- Danger to victim in the home country (retaliation)
- Fear of being ostracized by home country community
- Fear of abandoning the home
- Fear of police/experience in home country
- Religion
- Political instability in home country
- Gender barriers in home country
- Fear of unknown
2011 Potential Immigration Remedies

- Applications filed DHS
  - VAWA self petition
  - Battered spouse waivers (spouses of USCs with conditional permanent residency)
  - U visa
  - T visa (victims of trafficking)
  - Asylum (Government policies)

- Forms of relief from removal - granted by Immigration Judge
  - VAWA cancellation of removal
  - VAWA suspension of deportation
Human Trafficking simplified

- **Process-**
  - Recruiting,
  - Transporting,
  - Obtaining,
  - Moving

- **Means-**
  - Force,
  - Fraud, or
  - Coercion

- **End-**
  - Labor or
  - Commercial Sex
VAWA Confidentiality

- DHS barred from making inadmissibility or deportability decisions based solely upon information provided by abusers, including family members of abusers
- Enforcement locational prohibitions
- DHS cannot disclose VAWA information to anyone (except in limited circumstances)
DHS Humanitarian Release

- Breastfeeding mothers
- Sole/primary caregivers of children
- Screening in detention done
  - In English/Spanish
  - Oral and writing
- Release as
  - Order of recognizance
  - Order of supervision
  - Alternatives to Detention
Reason VAWA Works for Immigrant Victims

• Access to legal immigration status removes deportation barrier – improves victim safety
• Brings legal work authorization a path to economic independence
• Increases access to programs, services and protections designed to help victims of violence against women
• More victims willing and able to criminally prosecute
Reason VAWA Works for Immigrant Victims

- Interconnectedness of immigrant victims needs
- Access to legal immigration status removes deportation barrier
- Brings legal work authorization a path to economic independence
- When immigrant victims no longer fear deportation and have access to a means for economic survival
- They have dramatically increased access to all other programs, services and protections designed to help victims of violence against women
- Helps victim maintain custody of her children
  - Abuser
  - Child protective services
The Success Over Past Two Decades Years For Immigrant Victims

• Over 35,000 immigrant victims of domestic violence and child abuse – women, children, and men – lives changed by VAWA’s immigration protections
• Over 20,000 crime victim visas approved
• Numbers of programs serving immigrant victims has increased exponentially
VAWA Successes For Immigrant Victims

• Guaranteed access for all immigrant victims to
  – Shelters
  – Transitional housing
  – Victim services programs
  – Emergency health care
  – Prenatal care
  – Police assistance
  – Protection orders
  – Family courts
  – Community-migrant health clinics
  – Legal Services

• Funding for services to immigrant victims
• Immigration benefits (VAWA, T and U)
• Benefits access -- Challenge
  – Some VAWA eligible immigrant victims, and their children
Holistic Approach – Full Circle

- Legislation
- Regulations
- Working with government to implement
- Training
- Materials
- Technical Assistance
- Building Survivor leadership
- Building collaborations with immigrant CBOs
- Monitoring
- Research
- Story collection
- Legislation
Persistent Problems

- Social service providers not trained in immigrant victims legal rights and the services they can access undocumented victims
- Need more immigrant women and women of color within the domestic violence, sexual assault and human trafficking movement and programs
- Increased immigration enforcement
- State immigration laws & federal preemption
- Termination of parental rights
- Mainstream programs hiring policies
- Need to foster true collaborations
Results: Challenges

Systemic barriers that prevent victims from coming forward, proceeding and/or following through

- Language Access
- Psychological Factors
- Justice System
- Economic Factors
- Immigration Enforcement
PSYCHOLOGICAL STATE

Psychological toll of abuse
Frustration with process intrusive and lengthy

Fears:
About retaliation, feeling they have to chose between, abuse v. streets, abuse v. children, protection v. community learning they are in same sex relationships.
Challenges in collaborations

Law Enforcement

Success
- Aware and sensitive about DV
- Coordinated with other first responders
- Call legal aid when there is a case
- Educated about U visas
- Lack anti-immigrant attitude

Challenges
- Not aware of DV dynamics
- Not coordinating with others
- Not educated about U visas
- Anti-immigrant attitude

U-Visas Presentation-IFVC- 2010-
Hass & Monahan
Creative Solutions to collaboration challenges with law enforcement

Training and education (continuous-comprehensive-formal)

On going communication between police and victim advocate collaborators (individualized)

Partnership on a range of projects that affect victims

Tools to law enforcement to help them inform victims about U-visa relief

Participation in comprehensive collaborations with community agencies

U-Visas Presentation-IFVC- 2010- Hass & Monahan
Ongoing Challenges Include:

- System barriers that prevent victims from coming forward, proceeding, and/or following through.
  - Personal attitudes
  - Lack of training
  - Limited understanding of non-citizen victims legal rights
  - Lack of language access and/or cultural sensitivity on the part of first responders
  - Anti-immigrant bias among some in and out of government
Need for Comprehensive Immigration Reform As Prevention of Violence Against Women
Legalization will help immigrant women

• Win custody of their children
• Stops separation of children from their
  – primary caretaker immigrant mothers
• Promotes healthier outcomes for children
• Research among a particularly vulnerable population of immigrant mothers (battered immigrant women) found
  – When immigrant victims get help including legal immigration status
  – The likelihood mother’s abuser would also abuse the children dropped from 77% to 23%
Legalization helps immigrant women

• Counter court orders that mothers learn English before
  – Being awarded custody
  – The court will return children taken by child protective services
• Who are subjected to DHS enforcement at and outside courthouses
• Receive protection orders by stopping judges who
  – Refuse to issue protection orders to immigrant victims
  – Threaten to turn undocumented victims over to DHS when they came to court seeking protection orders
Comprehensive Immigration Reform Will Benefit Immigrant Women By

• Promoting family reunification
  – Reducing family visa back logs

• Ensure that legalization & immigration fee structures are designed to enable all members of the family to attain legal immigration status

• Promote women’s economic security by protecting immigrant women workers rights

• Provide portable work authorization
Comprehensive Immigration Reform Will Benefit Immigrant Women By

• Enhancing access to a fair justice system for all immigrants
  – Language access
  – Unrestricted access to legal services
• Providing access to federal and state funded public safety net benefits for lawfully present immigrants
  – End the 5 year bar
• Expanding access to protection & services for immigrant victims
  – Screening all immigrants subject to enforcement actions for victimization and humanitarian release eligibility
  – Providing early access to work authorization and protection from deportation
International Violence Against Women Act
The International Violence Against Women Act (I-VAWA) (S.2982, HR. 4594) Will If Passed:

- Increase U.S. government efforts to stop the global crisis of violence against women and girls
- Place women at the center of U.S. foreign policy
- Support measures to prevent violence, protect survivors and bring perpetrators to justice
- Promote best practices for preventing and responding to violence against women during times of peace and times of conflict
- Support new efforts to change social norms that support or condone violence
I-VAWA Would

• Create 5-year comprehensive strategy and funding to
  – Prevent & respond to violence against women
  – In 10-20 poor to middle income countries
  – With high rates of violence against women

• Expand ability of the U.S. to raise gender-based violence issues with foreign governments
  – as part of its diplomatic relations

• Requires the U.S. to develop a faster and more effective response to violence against women during
  – armed conflicts and humanitarian emergencies
I-VAWA Would--

- Provides funding that will lead U.S. foreign assistance programs to support overseas groups
  - women’s, health, legal, economic, social, & humanitarian
  - That incorporate stopping violence against women into their work

- Encourage investment in women to
  - alleviate poverty & increase the effectiveness of foreign aid

- Mandate that Senior Dept of State and USAID officials assert leadership, are accountable and coordinate the US role in prevention/response to violence against women
What you can do.

- Take action on line:
  - takeaction.amnestyusa.org
  - Follow links to I-VAWA

- Write an I-VAWA editorial/letter to the editor/blog post
  - Sample available at
    - endabuse.org

- Organize a call in or letter writing campaign to either
  - Urge your Senator/Representative to sign on as a co-sponsor
  - Thank you Senator/Representative for co-sponsoring I-VAWA
  - List of co-sponsors at: govtrack.us/congress
International Violence Against Women Act

- How might this affect Latin American countries?
The Violence Against Women Act of 2011
Priorities and Possibilities
National Network VAWA IV
Selected Priorities Include

• Make U-Visa certification primary evidence NOT mandate
• Early access to work authorization
• Expand access to federal public benefits for victims
  – U-visa victims
  – End 5 year bar
• Improved protections against deportation
  – Red Flag system for VAWA, T and U victims cases
  – Reinstatement of removal not apply to VAWA/T/U
• Expand inadmissibility waivers for VAWA self-petitioners
• Expand list of U-visa crimes
  – e.g. stalking, child abuse, child exploitation, child labor exploitation, child endangerment, elder abuse and exploitation, sexual harassment
National Network VAWA IV Selected Priorities

• Any state or local police who get involved in immigration enforcement subject to VAWA confidentiality
• Improved protections/options for immigrant children
• Recapture of U-visas lost due to DHS regulations delay
• Death of the abuser or the victim will not cut off VAWA, T or U-visa eligibility
• Divorce of parent not cut off child from VAWA self-petition
• Improved access to gender-based asylum
• Enforcement of language access re: governmental agencies
VAWA VI Priorities

• Funding priorities when police/prosecutor/court is
  – Certifying in U and T visa cases
  – Providing language access
• Open VOCA in all states to non-citizens
• Expanding grant programs that can fund legal assistance
• Improved access to transitional housing
• Encouraging more government funding for research on
  – Violence against women including domestic violence, sexual assault, trafficking, stalking, dating violence and elder abuse
  – Underserved victims, including immigrant victims
• HELP Separated Children Act
• Uniting American Families Act
VAWA Immigration Has Taught Us

• That what might seem impossible is possible
• That collaboration between attorneys, advocates, immigrant community groups, government officials, and justice system personnel is possible
• And can reap immeasurable benefits for victims of domestic violence, sexual assault and trafficking
For further assistance

Contact:
Immigrant Women Program, Legal Momentum
1101 14th St. NW
Washington, DC 20005
(202) 210-8886
www.iwp.legalmomentum.org
lorloff@legalmomentum.org