

Statement of Tahirih Justice Center

Submitted to the Committee on the Judiciary of the U.S. House of Representatives
Submitted in Writing on March 3, 2015

Tahirih Justice Center respectfully submits this statement to the Committee on the Judiciary to request that the Committee consider immigration enforcement in the context of our nation's commitment to protect immigrant women and children from domestic and sexual violence and human trafficking.

We are concerned that the bills under discussion before this Committee would make our communities less safe; limit due process and diminish the procedures in place to screen women and children for humanitarian protection; and prioritize the costly and inhumane prolonged detention of these most vulnerable immigrant populations.

Tahirih Justice Center is a national, nonprofit organization dedicated to protecting courageous immigrant women and girls who refuse to be victims of violence. Over the last eighteen years, we have provided holistic legal and social services to thousands of immigrants who have experienced severe trauma in the form of domestic and sexual violence and other gender-based violence through offices in the Washington, DC area, Houston, Texas, and Baltimore, Maryland.

H.R. 1148, the “Michael Davis Jr., in Honor of State and Local Law Enforcement Act”

This act will have the effect of making immigrant women and children more vulnerable to violence and exploitation while also making our communities less safe.

- **This act will have a chilling effect on cooperation with law enforcement, making all of our communities less safe.** Because the act encourages local and state law enforcement to act as immigration enforcement officers, immigrant victims of crime, including domestic and sexual violence, will be more reluctant to report the crimes of their abusers, which undermines the protections enacted by VAWA and similar legislation. The act will foster a climate of fear for immigrants and their communities, and reluctance to report crimes or cooperate with law enforcement will jeopardize overall public safety.
- **Criminalizing unlawful presence will negatively impact our communities.** Criminalizing unlawful presence will negatively impact families and communities, especially where parents without status may hesitate to report crimes against themselves or their children, seek medical help for themselves or their children, or even participate in their children's schooling – even if their children are U.S. citizens.
- **Expanding the immigration consequences for domestic violence-related crimes without including waivers for women who have been victims themselves will**

result in deportation of domestic violence survivors the Violence Against Women Act might otherwise protect. In many cases, when police respond to a domestic violence call, both parties are arrested, and sometimes a survivor who acted in self-defense is wrongly accused.¹ If the abuser speaks English better than the survivor, or if other language or cultural barriers (or fear of retaliation from the abuser) prevent the survivor from fully disclosing what happened, a survivor can be faced with charges and tremendous pressure to plead guilty (without being advised about the long-term consequences) in order to be released from jail and reunited with her children.

- **Prolonged immigration detention is not appropriate for women or children.** Many of the immigrant women and children who arrive at the border have already experienced trauma, especially in the form of domestic or sexual violence. Detention re-traumatizes vulnerable individuals and prevents them from accessing appropriate medical and mental health care. Current detention facilities are geographically isolated, placing women and children hours away from sufficient access to medical and legal resources. Furthermore, the current version of the SAFE Act eliminates the Family Residential Standards, which set a bare minimum for conditions in family residential facilities, without setting in place other safeguards.
- **Detention is very expensive, while effective alternatives are dramatically more economical.** Detention of women and children in immigration jails costs almost \$300 per person, per day. Alternatives to detention, which have a success rate of 96%, cost less than \$10.²

H.R. 1153, the “Asylum Reform and Border Protection Act”

This bill would rescind critical substantive and procedural protections codified in the Trafficking Victims Protection Reauthorization Act (TVPRA) that aid in assessing the humanitarian claims of children. To avoid turning away children who seek protection from severe harm, such as rape, abuse, sexual violence, torture, and human trafficking, their claims must be adjudicated in a full and fair manner.

- **Customs and Border Protection officers at ports of entry should not be given the power to repatriate children on the spot.** Unaccompanied children are often exhausted, malnourished, and experiencing symptoms of trauma when they are first apprehended by border officers. In this moment of disorientation and fear, it is not possible for a child to adequately express his or her fear of harm. With the stakes so high, and children’s lives at stake, CBP officers should not have the power to assess whether a child should be placed into expedited removal or ushered into the asylum process. It is more appropriate for children’s fears to be assessed by plain-clothes officers with specialized training in interviewing children as well as in humanitarian forms of immigration relief and only after they have had the opportunity to secure legal counsel.
- **The law must ensure that children are not sent away to experience violence, abuse, rape, torture, and trafficking.** This bill contemplates raising the standard for the threshold credible fear interview, applying the one-year filing deadline to children, and making possible removal of children to a third country where the child may have no guardian. These changes do nothing to improve the enforcement of immigration laws, but rollback critical protections that ensure children are not repatriated to be subjected to further harm.

¹ See John Morton, ICE Director, *Prosecutorial Discretion: Certain Victims, Witnesses, and Plaintiffs 1* (June 17, 2011), available at <http://www.ice.gov/doclib/secure-communities/pdf/domestic-violence.pdf>.

² Lutheran Refugee Service and Women’s Refugee Commission. *Locking Up Family Values, Again*. October 2014. <http://womensrefugeecommission.org/resources/document/1085-locking-up-family-values-again>

- **Detention of children is inappropriate.** According to international guidelines, prolonged immigration detention is inappropriate for all children, especially those who have experienced sexual or domestic violence or trafficking. This bill contemplates detaining children for the duration of the full adjudication of their claims for humanitarian protection. Detention of survivors of violence is re-traumatizing and can significantly reduce the ability of survivors to access counsel, mental health care, and community support, and makes it nearly impossible for them to adequately express their claims for protection. Prolonged detention of survivors, including children, therefore diminishes their access to due process and the legal protections that would otherwise be available to them.
- **Proposed language creating new grounds of inadmissibility related to gangs is overly broad and will affect those who need protection from gangs.** The language does not take into account the reality that many individuals seeking protection in the U.S., including women and girls, may have acted as a result of coercion or duress, nor does it consider victimization by gang members, including human trafficking. Furthermore, because the language does not require the government to substantiate its belief, asylum, temporary protected status and special immigrant juvenile visas could be denied on the basis of little to no evidence.

H.R. 1149, the “Protection of Children Act”

This bill incorporates many similar provisions to those in H.R. 5137, and is problematic for the same reasons. In addition, the bill targets supportive family of children entering the country.

- **Guardians of minors should not be forced into removal proceedings.** As described above, children are often survivors of violence and trauma and require support as they attempt to make their claims for humanitarian protection. Detention is known to be an inappropriate place for them, and release to trusted guardians is often their only option to be able to access social and legal services while they seek protection. Families and guardians who step forward to offer refugee children this support should not be penalized with removal proceedings.

Thank you for the opportunity to offer this submission.

Contact: Archi Pyati, Director of Policy and Programs
 archip@tahirih.org