

Violence Against Women Act protections for immigrant survivors of domestic violence continue in full force and effect and are NOT affected by the 2018 domestic violence asylum policies issued by the U.S. Department of Justice (November 19, 2018)

On June 11, 2018 the Attorney General issued a new precedential decision, in *Matter of A-B-*, 27 I&N Dec. 316 (AG 2018) narrowing the likelihood that domestic violence survivors will be able to obtain asylum in the United States. There has recently been a lot of misunderstanding in the legal community and in the field about whether the decision affects survivors of domestic violence eligible for other forms of immigration relief. The asylum decision affects victims who experienced domestic violence perpetrated against them outside of the United States who are seeking asylum in the United States.

This decision does not affect, alter or limit the ability of adult and child victims of domestic violence perpetrated in the United States to obtain immigration relief through any of the following immigration programs: Violence Against Women Act (VAWA) self-petition, VAWA cancellation of removal or suspension of deportation, battered spouse waiver, U visa, T visa, Special Immigrant Juvenile Status (SIJS), or work authorization for spouses of work visa holders. Additionally, statutory eligibility for VAWA self-petitions, SIJS and U visas based on crime victimization or abuse that occurred abroad continues unchanged for certain domestic violence, child abuse, neglect or abandonment, or sexual assault victims. This decision does not affect eligible survivors' ability to apply for any of these forms of immigration relief.

The Attorney General's decision concerns whether individuals who have survived domestic violence *in other countries* can seek asylum in the United States. The decision overrules a prior decision, *Matter of A-R-C-G-*, 26 I&N Dec.338 (BIA 2014), which held that in some circumstances, domestic violence survivors could apply for and receive asylum protection. The new decision does **not** affect the ability of immigrants *in the United States* who experience domestic violence or are victims of other crimes to seek immigration relief Congress created to provide relief to victims of domestic violence and other crimes.

Battered spouses and children have several forms of immigration relief available to them. Under VAWA, spouses and children of U.S. citizens and lawful permanent residents and parents of over 21 year old citizen children who have been battered or subjected to extreme cruelty by these family members may be eligible for self-petitioning and for cancellation of removal orders. U-visas are available to victims of domestic violence, sexual assault, human trafficking, stalking and/or other crimes.¹ Children who suffered abuse, neglect or abandonment by a parent also continue to be eligible to apply for SIJS.²

Judges, state courts, law enforcement and prosecution officials and other governmental and non-governmental agencies should therefore continue distributing Know Your Rights information about crime victim related immigration relief, signing U and T visa certifications and issuing SIJS findings. These practices promote access to justice for immigrant crime victims and ensure the safety of our communities.

To learn more about domestic violence and asylum see: [Matter of A-B- Information Sheet - CGRS](#), [Asylum Practice Advisory - NIJC](#), [Gender-based asylum – Tahirih](#) and on domestic violence immigration remedies: [VAWA Self-Petition](#), [U Visa](#), and [SIJS](#).

¹ See Leslye Orloff and Benish Anver, Family Court Bench Card on Immigration Rights of Battered Spouses, Children and Immigrant Crime Victims, NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT (last updated October 11, 2013), <http://niwaplibrary.wcl.american.edu/pubs/judg-tkit-bchcrdvictimimmrights10-11-13/>

² NAT'L IMMIGRANT WOMEN'S ADVOCACY PROJECT, SPECIAL IMMIGRANT JUVENILE STATUS BENCH BOOK: A GUIDE TO BEST PRACTICE FOR JUDGES AND COURTS (2017), <http://niwaplibrary.wcl.american.edu/2018/03/sijs-manual-table-of-content/>