



National Survivor Network
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Statement re: Trafficking Survivors Relief Act (2024)

The National Survivor Network has long advocated for federal vacatur and expungement for trafficking survivors for crimes committed as a result of their trafficking. In fact, it was our staunch advocacy that led to the initial development of the Trafficking Survivors Relief Act years ago. Survivors should not be criminalized for their own victimization, and our values statement specifically names **comprehensive** vacatur and expungement as a commitment and a priority.

When the Trafficking Survivors Relief Act (TSRA) was introduced by Senator Kirsten Gillibrand in 2022, it was a strong and comprehensive bill, and we were honored to support it. The text for that bill was nearly identical to the text in the current introduced bill, except for a significant deletion that renders meaningless vacatur and expungement for most criminalized immigrants. The text that was removed from this year's bill reads: "no alien may be removed, determined to be inadmissible, or lose any immigration benefit because of such conviction, arrest, or institution of criminal proceedings, or any related conduct."

If an immigrant who comes to the US on a legal visa is then forced by their employer to engage in illegal activities (which is trafficking), criminal proceedings against them will almost always include detention and the initiation of deportation proceedings. Under the 2022 TSRA these victims would also have access to a return to the pre-conviction status. Under the currently introduced incomplete vacatur and expungement, **these victims could still be detained or deported because of their own victimization**. While we could rely on administrative guidance or local implementation that considers these victims' rights, **recent spikes in virulent anti-immigrant sentiment would likely mean inconsistent protections for these immigrants**.

Indeed, **the current wave of anti-immigrant bigotry is the reason this protection for immigrant victims was removed**, as any law that honors immigrants' rights and access to safety is unlikely to pass the current Congress.

Our members were torn on whether or not to support the TSRA this year. Many of us have charges that would be vacated and expunged under the current TSRA and desperately need this relief. And we also have members who were nearly deported to unsafe situations they'd fled as a result of criminalization resulting from their trafficking. Our policy vote on this issue was not unanimous, but a clear majority of members were unable to support this year's TSRA, and for this reason, the National Survivor Network is unable to endorse this legislation as it is currently written. Comprehensive vacatur and expungement mean that **all survivors must have access to criminal record relief**, not just those that our current political climate deems worthy of safety. While we understand the impulse to get *any* federal vacatur passed to help the survivors who

desperately need it at this time, we are unwilling to sacrifice the safety, dignity, and importance of criminalized immigrant victims in order to pass vacatur. Marsha P. Johnson, someone who had turned her lived experience into co-developing a shelter for homeless gay and trans youth, once said, “You never completely have your rights, one person, until you all have your rights.”¹ While it is painful to not support record relief for some survivors who desperately need it, we recognize that incomplete justice is not truly justice.

I’ve pasted below some of the feedback from our members (no matter which way they voted) for your consideration.

Warmly,
Chris Ash
Survivor Leadership Program Manager

“We cannot pick and choose which trafficking survivors deserve justice. Immigrants and undocumented people are targeted specifically because their legal status makes them susceptible to manipulation, coercion, and compliance... Forced criminality is not a choice; It is mandatory and noncompliance is not an option... Threats of deportation are well-documented forms of abusive power and control... None of us are free while anyone is left behind. Immigration relief is a critical component of prevention and protection against human trafficking. Why should migrants be the collateral damage of a policy that could instead be fully comprehensive and inclusive of all survivors?”

“Immigrants are one of the most vulnerable populations to trafficking, and denying this protection is anti-human because it means no immigrant who has been forced to commit a crime under the duress of trafficking can ever come forward about their experiences to law enforcement or reporting hotlines, which keeps them trapped in horrifically traumatizing situations.”

“Traffickers exploit vulnerability. My first trafficker trafficked both US citizens and undocumented migrant workers whom he defrauded. If Congress actually wants to end human trafficking, we must support all trafficking survivors because traffickers do not respect laws or borders.”

“I’m worried about going into an uncertain election cycle that is already at best going to place migrants in a space of further harm. At worst, we will not support any foreign-born victim period. Something is not better than nothing. Sometimes nothing is advocating louder for those the US is trying hard to silence.”

“When we advocate about the issue that impacts us we advocate for everyone regardless of our experiences. With respect, this law should include every survivor, both domestic as well

¹ <https://www.nps.gov/articles/000/marsha-p-johnson-sylvia-rivera.htm>

foreign, regardless of their status. There is already division. Let's write laws that will benefit all survivors. Unity, not division.”

“Laws like this should protect all survivors and not just the few. ALL survivors no matter their citizenship, gender, disability, race, or sexual orientation deserve equitable treatment under the law.”

“We cannot claim as a country to want to fight trafficking and support victims/survivors while leaving out basic human rights and supporting immigrants.”