

Human Rights Watch

Indigenous Peoples' Rights

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Bill Undermines Critical Protections in Violence Against Women Act Renewal

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(Washington, DC) The [United States](#) House of Representatives should approve a Senate-passed bill to renew the Violence against Women Act (VAWA), not a weaker House version that undermines protections, Human Rights Watch said today. Approving the Senate-passed bill would ensure that all women who are victims of violence have access to protection and services, Human Rights Watch said. The House is expected to vote on renewing the act this week.

The House bill undermines provisions in the Senate bill intended to address gaps in access to justice for victims of violence on Native American reservations. It also narrows protections for immigrant victims and leaves out protections against discrimination for lesbian, gay, bisexual, and transgender (LGBT) victims. Efforts to renew VAWA in the last Congress stalled over differences between the House and the Senate on these issues.

Unfortunately, it looks like the House leadership has learned very little from the last time around, said [Meghan Rhoad](#), women's rights researcher at Human Rights Watch. With this bill, they are standing in the way of ensuring that all victims can count on protection in the face of violence. We hope the House will change course and support the bipartisan Senate bill.

VAWA is the primary federal law providing legal protection and services to counter domestic abuse, sexual violence, and stalking. Congress has reauthorized VAWA twice since it originally passed in 1994. The Senate passed S. 47, a bipartisan bill to renew VAWA, with 78 votes on February 12, 2013.

The Senate bill addresses the jurisdictional issues that make it difficult to hold non-Native American men accountable for violence committed against Native American women. The bill would restore Native American tribal courts jurisdiction in such cases if domestic violence and dating violence crimes are committed on tribal lands.

Currently, neither state nor tribal authorities have jurisdiction in such cases. The federal government has jurisdiction but often does not make prosecuting misdemeanor domestic violence and dating violence offenses a priority. According to the US Government Accountability Office, assault and sexual abuse charges are the most prevalent type of charge on reservations, accounting for 55 percent of all charges between fiscal years 2005 and 2009. The US Attorneys Offices did not prosecute 67 percent of the sexual abuse and related cases and 46 percent of the assault cases.

Under the Senate bill, the federal government would continue to have jurisdiction alongside the tribal authorities. The bill states that tribal courts would have to provide for defendants constitutional rights, including the right to a trial by an impartial jury. Defendants would be able to bring a petition of habeas corpus to federal court to challenge their detention by tribal authorities.

The House bill would require a tribal authority to apply to the US Attorney General for certification that it would be able to protect the accused's rights before the authority could exercise jurisdiction in such cases. Further, the House bill would allow offenders subject to final orders in tribal courts to bring those orders to federal courts for review. Representative Tom Cole, Republican of Oklahoma, has said that the House bill falls short in providing tribes the authority they need to secure their territory and protect their citizens.

By not holding non-Native American abusers accountable for violence against Native American women, the justice system sends the message that it is okay for the abuse to continue, Rhoad said. We need to solve the jurisdictional issues that for too long have given abusers a free pass and left Native American women in danger.

Native American women experience particularly high levels of violence: data from the National Institute of Justice and the Centers for Disease Control and Prevention (CDC) indicate that 34 percent of Native American women are raped in their lifetimes, and that 39 percent are victims of domestic violence. By comparison, CDC statistics indicate that 20 percent of women in the US have been raped and 25 percent have experienced severe physical violence at the hands of an intimate partner.

The House bill would also weaken protections for immigrant women, Human Rights Watch said. It would change requirements for the U visa, a temporary visa allowing an immigrant victim of a serious crime to stay in the US to assist law enforcement in investigating and prosecuting the crime. Under the House bill, law enforcement would not be able to certify a victim for a U visa if she was likely to be helpful with an investigation or prosecution, but only if she had been or was currently being helpful. This change will unnecessarily hinder law enforcements ability to protect cooperative victims who provide information that may trigger an investigation or prosecution, Human Rights Watch said.

The House bill also removes a Senate provision that would have added stalking to the list of serious crimes covered by the U visa.

The House bill would actually make it more difficult for law enforcement to investigate crime, Rhoad said. And it would undermine all the work that has been done to reassure immigrant women that they can always seek protection from violence without risking deportation.

In addition, the House bill omits anti-discrimination provisions to ensure that LGBT victims of violence have equal access to critical services. The Senate bill included these protections after service providers across the country identified LGBT victims as an underserved group. The House bill also fails to include certain public housing protections for victims of violence; requirements for universities to address sexual violence on campus; and provisions aimed at reducing the national backlog in testing rape kits sets of physical evidence collected from such crimes.

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