

U VISA OFFERS HOPE FOR ILLEGAL IMMIGRANTS WHO ARE ABUSE VICTIMS;

NEW RULES WOULD EXPAND THE BENEFIT

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Body

It's been more than a year since the last vicious beating, but in recalling it, Maria Estervina Perez stiffens her back, looks away, and begins to quietly cry.

That cold morning, her boyfriend angrily insisted upon driving her to work. Suddenly, at a stoplight, Perez jumped from the car, but quickly he caught her, gripped her blouse to hold her still and stripped off his leather belt.

"He started beating me right there on the street," Perez said in Spanish, tears streaming down her cheeks. The **illegal immigrant** from El Salvador felt helpless about her relationship marked by violence. "I felt lost and **abused**. I had nowhere to go."

Today, thanks to a little known document called the **U visa**, that **benefits immigrant** crime **victims**, Perez, 44, has a work permit and a temporary document that allows her to remain in the United States.

The Mercury News has learned that after five years the government has finally completed a draft of regulations that would extend **U visa benefits** to thousands more people. It is now being reviewed by the **U.S.** Citizenship and Immigration Services, the agency that will administer it. The wait follows a five-year delay compounded by the Sept. 11, 2001, attacks and its bureaucratic aftermath.

Without formal regulations, say women's advocates, the well-intentioned law has sat unused, keeping numerous **victims** like Perez around the country unable to get protection from their abusers and from deportation.

When the law was passed in 2000, Congress allowed for up to 10,000 **victims** annually to be helped with the **U visa**. A temporary measure, called "interim relief," is in place while the regulations are pending. Only about 500 nationwide have sought this temporary protection because of uncertainty about the regulations.

Perez, a cook from Redwood City, is one of the lucky few. She is also protected by a restraining order against her boyfriend, who was convicted of assault, served a month in jail and was sentenced to 18 months probation.

"You don't know how to proceed when you don't have regulations to guide you," said Mary Dutcher, immigration program director for the Community Legal Services in East Palo Alto.

Dutcher, an immigration attorney, helped Perez and two dozen other **immigrants** from the Bay Area apply for the temporary status under **U visas**.

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Women's advocates in the Bay Area and around the country are worried that heated national debate about immigration reform will cause the law to continue in limbo, or that the regulations will be written to restrict its use.

Called the Victims of Trafficking and Violence Protection Act, and passed by Congress in October 2000, the law offers legal protection to illegal immigrants who are victims of violent crimes, including domestic violence.

"We're struggling to explain the law to clients," said Jayaishri Srikantiah, associate professor at Stanford University Law School, and director of the Immigrants Rights Clinic.

"That's very hard to do when you don't have regulations," Srikantiah said.

It's not clear how long the review will take and when the regulations will be implemented, according to Gail Pendleton, associate director of the National Network to End Violence Against Women, a national group that worked on passage of the U visa law.

Once regulations are approved, said Pendleton, the work to publicize U visas, educating law enforcement agencies and lawyers and helping more victims can begin.

Critics weigh in

As regulations are being reviewed, opponents of the U visa are repeating the arguments they made when it became law in 2000.

"This is the sort of thing that will be abused," said Ira Mehlman, a spokesman for the Federation for American Immigration Reform, a national group that lobbies for greater border and immigration restrictions.

Mehlman said crimes would be difficult to document.

"You have two separate crimes you're dealing with in this issue," Mehlman said. "Just because you become the victim of a crime doesn't mean we should forget about the law that you violated by being here illegally."

But without regulations, law enforcement agencies have also been hampered from taking full advantage of the law, said Santa Clara County Deputy District Attorney Rolanda Pierre-Dixon, who supervises her department's domestic violence unit.

"The concept is a good one," Pierre-Dixon said. "You don't want to end up having someone deported and put in a worse situation."

"Heaven forbid they're so afraid of deportation they're not telling law enforcement and it allows the crime to continue," said Pierre-Dixon, who has certified "less than a handful" of cases.

Outside of helping law enforcement, U visa has a public safety component, said Lynette Parker, supervising attorney for the Katherine & George Alexander Community Law Center in San Jose.

The cooperation of a victim may result in the jailing of a violent sexual predator, getting him off the streets, Parker said.

Crime cases reviewed

Bay Area lawyers reported reviewing dozens of cases of domestic violence, spouses of H1-B workers (those allowed to enter the United States to fill specialized jobs), spouses of undocumented immigrants, immigrant minors who have been raped -- all victims of crime who are likely to get deported without the protection of U visas.

In the past six months, Dutcher, Srikantiah and other members of a network of attorneys and social workers who help victims of domestic violence have been quietly spreading the word about U visas. Dutcher, for instance, talked with police chiefs and district attorneys, conducting primers on the U visa.

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Pendleton prepared an informal guide for lawyers, a U-visa certification form, and a form for law enforcement agencies.

Still, without regulations, advocates and lawyers have pursued cases reluctantly, Pendleton said.

No one knows how many immigrants from the Bay Area have received temporary legal status. But an informal survey of lawyers who have expertise on the subject indicates that dozens of immigrants, most them victims of domestic violence like Perez, have received temporary protection.

Angel Santuario, 23, a janitor from Mountain View, received an interim U visa a month ago, also with Dutcher's help.

Three men shouting homophobic epithets at Santuario -- who is not gay -- brutally attacked him outside a Mountain View nightclub in 2003.

Santuorio was 16 when he and his mother crossed the border from Mexico into the United States.

Like Perez, he was an undocumented immigrant who lived in the shadows.

The brutal attack left Santuario with short-term memory loss, but it changed his future in the United States.

"I'm relieved," Santuario said in an interview. "Now I can think about a job, a family and an education."

LITTLE KNOWN U VISAS

WHAT: U Visas are for non-citizen victims of certain serious crimes including rape, torture, trafficking, incest, domestic violence, sexual assault, prostitution, female genitalia mutilation, involuntary servitude, slave trade, kidnapping and blackmail.

WHY: To strengthen the ability of law enforcement agencies to prosecute cases involving immigrants who are victims and to offer them protection regardless of their immigration status.

HOW: To qualify, an immigrant victim must assist in the investigation or prosecution of certain serious crimes.

Source: U.S. Department of Homeland Security; National Immigration Project of the National Lawyers Guild; National Network to End Violence Against Immigrant Women

WHY IT MATTERS

The U visa law is 5 years old but lacks regulations. Rules are being reviewed, and upon approval would extend benefits to thousands of illegal immigrants who are crime victims.

Graphic

Photo;

PHOTO: LEN VAUGHN LAHMAN -- MERCURY NEWS

Maria Perez, a domestic abuse victim, is one of only about 500 illegal immigrants nationwide who have been able to receive a U visa.

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