2A Evidence: U Visas

By “Coach Vance” Trefethen

***Resolved:* *The United States federal government should substantially reduce its restrictions on legal immigration to the United States.***

Summary: The U visa allows an immigrant in the United States (legally or illegally; most are illegally) to stay and work in the U.S. and eventually obtain a green card for permanent residency, if they have been a victim of crime and are cooperating with authorities in investigation of that crime. The majority of U visas are given to victims of domestic abuse, although the list of eligible crimes is quite long and there are numerous cases of immigrants helping with other types of crimes. Law enforcement officials must certify that the immigrant is a legitimate victim of a crime and that they have provided actual assistance in its investigation, in order to qualify for the U visa. U's are capped at 10,000 per year, a number grossly inadequate to the number of victims who are applying, and the huge backlog means victims wait years to be processed. In the meanwhile, they could be deported, or they could be continually and repeatedly victimized by domestic abusers who have leverage over them because they fear deportation. Expanding U visas and stopping deportation of U visa applicants will help solve crime by encouraging immigrants to cooperate with law enforcement without fear of deportation. It also helps taxpayers by reducing the social costs of welfare and wasted law enforcement resources.

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DEFINITIONS / TOPICALITY

The U Visa is an immigration process for victims of crime

Dept of Homeland Security 2000 (ethical note about the date: article is undated but references events in 2000) U Visa Law Enforcement Certification Resource Guide for Federal, State, Local, Tribal and Territorial Law Enforcement <https://www.dhs.gov/xlibrary/assets/dhs_u_visa_certification_guide.pdf>

The U visa is an immigration benefit that can be sought by victims of certain crimes who are currently assisting or have previously assisted law enforcement in the investigation or prosecution of a crime, or who are likely to be helpful in the investigation or prosecution of criminal activity. The U visa provides eligible victims with nonimmigrant status in order to temporarily remain in the United States (U.S.) while assisting law enforcement. If certain conditions are met, an individual with U nonimmigrant status may adjust to lawful permanent resident status.

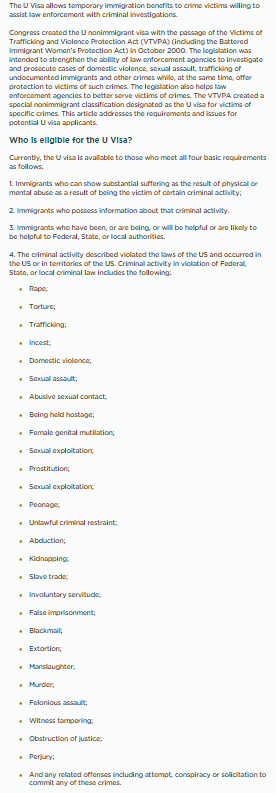
A/T "U is a non-immigrant visa" – It allows people to get green cards and immigrate

Nora Caplan-Bricker 2017 (journalist) 29 Mar 2017 "I wish I'd never called the police" SLATE <http://www.slate.com/articles/news_and_politics/cover_story/2017/03/u_visas_gave_a_safe_path_to_citizenship_to_victims_of_abuse_under_trump.html>

In 2012, Anabel received what’s known as a U visa; after three years, such visa holders are eligible to apply for green card status, and she became a permanent resident last June.

Detailed definition of the U Visa

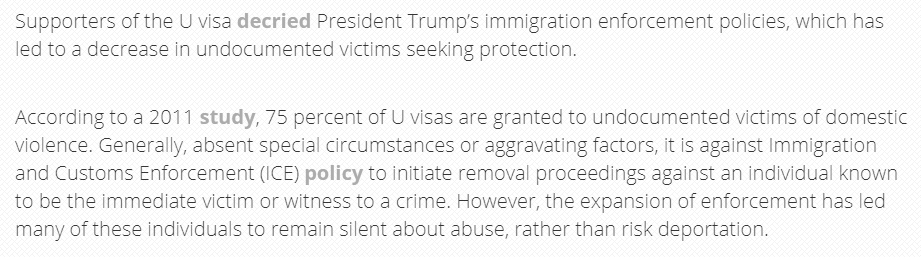
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INHERENCY

Trump's enforcement priorities discourage U visa applicants and leave them suffering abuse rather than risk deportation

*Melanie Huettman 2017 (J.D. candidate at Univ. of Iowa College of Law; immigration policy intern at the Niskanen Center) 20 July 2017 "* THE U VISA UNITES LAW ENFORCEMENT AND IMMIGRANTS" <https://niskanencenter.org/blog/u-visa-unites-law-enforcement-immigrants/>



A/T "U visa applications reduced recently" – Backlog is still vast and delays still bad

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In spite of the reduced number of applications for a U visa, the vast number of pending applications has reduced the efficiency of the system. Applicants often [wait two to three years](http://www.slate.com/articles/news_and_politics/cover_story/2017/03/u_visas_gave_a_safe_path_to_citizenship_to_victims_of_abuse_under_trump.html) without any deportation protection before a decision is made on their application. If their application is approved, the recipients wait one to two more years before they actually receive their visa, though they are granted work authorization and deportation protection in the meantime.

There's even a waiting list to get onto the waiting list for the U Visa

Kate Linthicum 2015 (journalist) LOS ANGELES TIMES 1 Feb 2015 Safety for immigrant victims put on hold by U-visa delay <http://www.nnirr.org/drupal/node/899>

Demand for the program has far outpaced a 10,000-per-year cap on the visas set by Congress, with just over 26,000 applications filed last fiscal year. There's even a wait to get on the waiting list: U.S. Citizenship and Immigration Services, which processes the applications in the order they were filed, hasn't evaluated any application submitted after December 2013.

SOLVENCY / ADVOCACY

We need to raise the U Visa cap because the backlog is undermining the program and victims won't come forward

Kate Linthicum 2015 (journalist) LOS ANGELES TIMES 1 Feb 2015 Safety for immigrant victims put on hold by U-visa delay <http://www.nnirr.org/drupal/node/899>

Immigrant advocates say the sharp rise in applications should be matched by a larger number of visas granted. They are calling on Congress to raise the annual cap and asking the government to do more to help those waiting on a visa in the near term. Gail Pendleton, co-director of Asista, which advocates for immigrant victims of domestic violence and sexual assault, recently co-wrote a letter to the director of immigration services asking for new procedures to allow relatives of victims who are living abroad to come to the U.S. on parole status. "Family members abroad desperately need to reunite with the primary crime victim, and the crime victim needs family support to heal and build a new life," she wrote. In an interview, she said the long delays for visas could undermine the program. "When victims hear that the visas are used up they may think it's not worth it to come forward," Pendleton said.

U visa limit should be raised to 30K. Failing to raise it creates inhumane suffering for those waiting

Shah Peerally Law Group 2016 (immigration attorneys) 5 Apr 2016 Shah Peerally Law Group calling on Congress to increase the Visa Cap for Victims of Crimes known as the U visa Cap. <https://www.peerallylaw.com/shah-peerally-law-group-calling-congress-increase-visa-cap-victims-crimes-known-u-visa-cap/>

The Shah Peerally Law Group Pc, an immigration law firm in California, calls on Congress and President Obama to increase the U visa cap from 10,000 to 30,000. The law firm which had previously, with great success, championed for the H4 work permit and TPS for Yemen, has now set its goal to help immigrants who are victims of criminal activities. The [U visa](http://www.peerallylaw.com/u-visa/)is given to those who are victims of certain crimes. Congress created the U non-immigrant visa with the passage of the Victims of Trafficking and Violence Protection Act (including the Battered Immigrant Women’s Protection Act) in October 2000. The legislation was intended to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of aliens and other crimes while, at the same time, offer protection to victims of such crimes. While the visa has been a blessing for many, its limitation is based on its cap. Unfortunately only 10,000 are issued and there are around 30,000 applications per year. This situation has created a huge backlog for those who are waiting for this important visa. At this point in time, the estimated time to get an approval from the United States Citizenship and Immigration Services (USCIS) is around two to three years. If the trend continues the waiting time might soon reach five to ten years before a U visa is approved and U visa work permit is issued. Note that the applicants can still get a deferred action (DA) work permit. However, recently the deferred action or conditional work permit has also been delayed and many who are victims of crimes applicants are now victims of the system. The goal and the legislative intent of issuing the U visa are actually defeated by the stressful waiting time. One of the requirements of the U visa is that the victim has suffered substantial physical or mental abuse. As such the victims are already under psychological trauma and making them wait to obtain their ability to to move on with their lives is simply inhumane.

U Visa cap needs to be raised to solve the backlog

Wilson Law Group 2015 (immigration attorneys) THE OTHER VISA CAP PROBLEM - THE ANNUAL U VISA CAP INJUSTICE 29 Nov 2015 <https://wilsonlg.com/immigration/blog/other-visa-cap-problem-annual-u-visa-cap-injustice>

The arrival of yet another “U visa season,” emphasizes to practitioners the acute need for legislative reform in this area. 10,000 annual visas are not enough. Congress should enact legislation to increase the cap. The U visa waitlist grows ever larger. In 2012, USCIS received almost 18,000 U visa applications. With an approval rate of approximately 80%, the waitlist will not be improving anytime soon.

ADVANTAGES

Solve Crime

Expanding U visas would get more testimony to solve crimes

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The Trump administration has made it clear that combating crime is one of their main focuses. The U visa gives them a tool to fight violent crime and make communities safer, but it remains underutilized. While bureaucratic inefficiencies may not give rise to public indignation, backlogs and delays make victims less likely to come forward. As a result, crimes go unreported and criminals unpunished, making us less safe. Empowering crime victims to provide crucial information and testimony that helps build the case against violent offenders should be welcomed. It’s time to expand the U visa cap and alter enforcement priorities to provide deportation protection to many more crime victims that can help put violent offenders behind bars.

Domestic Violence

Abusers feel emboldened to threaten and retaliate when victims can be deported

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However, the expansion of enforcement has led many of these individuals to remain silent about abuse, rather than risk deportation. Their fears are well founded. Undocumented women have been [apprehended](http://www.slate.com/articles/news_and_politics/cover_story/2017/03/u_visas_gave_a_safe_path_to_citizenship_to_victims_of_abuse_under_trump.html) by ICE at courthouses while seeking protective orders. Abusers now feel emboldened to threaten and retaliate against their victims by reporting them to ICE. Once reported, the victims have little opportunity to seek recourse.

Reduced Social Costs

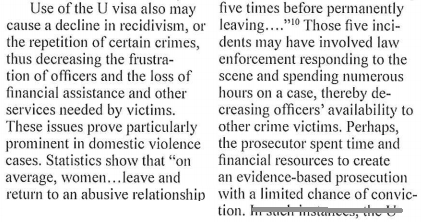
U Visa allows victims to support themselves financially

Stacey Ivie and Natalie Nanasi 2009 (Ivie – M.Ed. Nanasi – J.D.) "The U Visa – An Effective Resource for Law Enforcement" Oct 2009 FBI LAW ENFORCEMENT BULLETIN <https://victimsofcrime.org/docs/Toolkit%20Bulletins/u-visa---fbi-article.pdf?sfvrsn=0>



U Visa reduces social costs because it stops wasting law enforcement resources and reduces financial assistance needs

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DISADVANTAGE RESPONSES

A/T "Fraud and abuse"

Local police have to certify that the immigrant is cooperating before U visa is issued

Lauren Smiley 2011 (journalist) 16 Mar 2011 SF WEEKLY "U-Visa: Illegal Immigrants Become Legal Residents Via Crime Victimization" <https://archives.sfweekly.com/sanfrancisco/u-visa-illegal-immigrants-become-legal-residents-via-crime-victimization/Content?oid=2180863>

While the federal government issues U visas, local law enforcement plays an indispensable role. Police officers must certify the application, confirming that the person was a victim of one of the eligible crimes or has knowledge of the crime; and "has been helpful, is being helpful, or is likely to be helpful" in the investigation or prosecution.

Immigrants aren't making up crimes to get U visas

Lauren Smiley 2011 (journalist) 16 Mar 2011 SF WEEKLY "U-Visa: Illegal Immigrants Become Legal Residents Via Crime Victimization" <https://archives.sfweekly.com/sanfrancisco/u-visa-illegal-immigrants-become-legal-residents-via-crime-victimization/Content?oid=2180863> (brackets added)

When [San Francisco Police Inspector Tony] Flores asked the audience members for questions, they seemed skeptical. *Will I get in trouble if they commit a crime after I sign off on the application?* "There's no way to stop that, but we can say it's not us [giving them the visa], it's Homeland Security," he answered. *What about false reports?* Flores admitted that he, too, was skeptical at first. "I was like, 'I'm gonna see a bunch of people making false reports to stay in the country.' I'm not seeing that at all."

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