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# A PATH TO SAFETY & CITIZENSHIP:

# A GUIDE FOR NEW UNITED STATES ARRIVALS & SURVIVORS OF GENDER BASED VIOLENCE

Immigration and Domestic Violence Laws That Help

Survivors Navigate Their Legal Rights



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# 01

## Introduction

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Welcome to **"A Path to Safety and Citizenship: A Guide for New United States Arrivals and Survivors of Gender Based Violence"**.

This ebook is designed to provide information and guidance to new arrivals in the United States who are survivors of domestic and gender based violence. We understand that navigating the immigration legal system can be daunting, especially when someone is also dealing with the trauma and emotional upheaval of domestic and gender based violence.

This guide is intended to help you understand your legal rights and options so you can make informed decisions about your path to safety and legalization as a new arrival in the United States of America.

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The chapters in this guide cover a range of topics, from the specific legal protections available to survivors of domestic and gender based violence to the different types of visas that may be available, as well as the eligibility requirements and application processes. We will examine the **Violence Against Women Act (VAWA)** and other federal and state laws that provide protections to new arrivals and survivors of domestic and gender based violence.

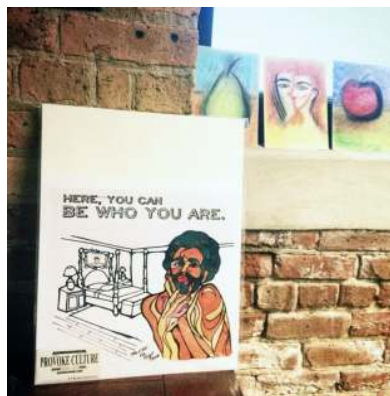
Our hope is that this guide will empower you with knowledge and resources while also helping you find a path to safety and legal status. **We recognize that every situation is unique and this guide is not intended to replace legal advice from a qualified attorney or professional mental health counselor.** However, we hope that it will provide a useful starting point for survivors of domestic and gender based violence who are seeking information and support while pursuing a legal status in the US.

This ebook is written with the support and encouragement of [Truth & Reconciliation Conversations](#) (TRC), a nonprofit charity that promotes racial reconciliation and gender equality. TRC partners with diverse organizations to host the TRC Global Summit and offer year-round accredited courses to teach students how to identify and prevent domestic and gender based violence (GBV).

We believe that every survivor and new arrival has the right to safety and dignity, regardless of immigration status. We hope that this guide will help you navigate the complex legal immigration system and find the support you need to achieve safety, healing, and justice.

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# 02

## A Path to Citizenship

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# LAWS IN THE US

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**There are a number of laws in the United States (USA) that aim to reduce gender-based violence. Some examples of these laws include:**

**1. The Violence Against Women Act (VAWA):** This federal law, which was first passed in 1994, provides resources and support to victims of domestic violence, sexual assault, and stalking. It also established the Office on Violence Against Women within the Department of Justice and the National Domestic Violence Hotline.

**2. The Equal Employment Opportunity Commission's guidelines on workplace harassment:** These guidelines which were issued by the Equal Employment Opportunity Commission (EEOC), provide guidance on how employers can prevent and address harassment based on sex, race, and other protected characteristics.

**3. Title IX of the Education Amendments of 1972:** This federal law prohibits sex discrimination in education and requires schools to take steps to prevent and address sexual harassment and assault.

**4. The Clery Act:** This federal law requires colleges and universities to report crime on campus, including sexual assault, and to provide resources and support to victims.

**5. State laws:** Many states have enacted laws to reduce gender-based violence such as domestic violence protective orders and laws requiring employers to provide accommodations to victims of domestic violence.

These are just a few examples of laws in the United States that aim to reduce gender-based violence. There are many other laws and policies at the federal, state, and local levels that also address GBV as we will see throughout this ebook.



# THE VAWA ACT

**The Violence Against Woman Act (VAWA) was first passed in 1994 as a federal law in the United States with the goal of addressing domestic violence, sexual assault, and stalking. It was the first piece of legislation to recognize and address domestic violence as a crime, rather than a private family matter.**



Before VAWA, victims of domestic violence often had no legal recourse and were often unable to get protection from their abusers. There was also a lack of resources and support available to victims as well as a lack of training for law enforcement and judicial officials on how to properly handle domestic violence cases.

VAWA was a groundbreaking legislation that provided much-needed support and resources for victims of domestic violence, sexual assault, and stalking. It established the Office on Violence Against Women Act within the Department of Justice which is responsible for administering grants and providing technical assistance to organizations that work to address these issues.

**VAWA created the National Domestic Violence Hotline  
(800-799-7233)**

**The hotline provides 24/7 support and assistance to victims of domestic violence and is available in multiple languages.**

In addition, VAWA provided funding for shelters and other resources for victims as well as training for law enforcement and judicial officials on how to properly handle domestic violence cases.

Since its passage, VAWA has been reauthorized several times with each reauthorization strengthening and expanding its provisions. The most recent reauthorization (VAWA 2022), signed into law by President Biden on March 15, 2022, expanded protections to include victims of dating violence and stalking, as well as LGBTQ+ individuals and Native American women. It also included provisions to address campus sexual assault and improve the criminal justice response to these issues.

Prior to the passage of VAWA, domestic violence was often seen as a private matter that was not the concern of the criminal justice system. This led to a lack of legal recourse for victims who often had no way to get protection from their abusers. There was also a lack of resources available to help victims escape abusive situations and a lack of training for law enforcement and judicial officials on how to properly handle domestic violence cases.

VAWA was a response to these deficiencies and it has had a significant impact on the way that domestic violence is addressed in the USA. In addition to establishing the **Office on Violence Against Women and the National Domestic Violence Hotline**, VAWA has been instrumental in increasing awareness and understanding of domestic violence and sexual assault. It has helped to shed light on these often-hidden issues and has provided victims with a greater sense of hope and support.

Despite the progress that has been made thanks to VAWA, there is still much work to be done to address and prevent gender based and domestic violence, sexual assault, and stalking. These issues continue to affect a significant portion of the population and it is important that we remain committed to finding solutions and supporting victims. VAWA has been a crucial step in this process and it will continue to be an important tool in the fight against these crimes.

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**National Domestic Violence Hotline (800-799-7233)**

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# VAWA AND IMMIGRATION

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One of the provisions of the Violence Against Women Act (VAWA) is the creation of a self-petition process for certain immigrants who are victims of gender based and domestic violence, sexual assault, and stalking. This provision allows immigrants to seek legal status in the United States without relying on their abuser for sponsorship. Before VAWA, immigrants who were victims of domestic violence often had few options for escaping abusive relationships. They might have been afraid to seek help or report the abuse, fearing that they would be deported or that their abuser would use their immigration status against them.

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VAWA's self-petition process provides a way for immigrants who are victims of GBV or domestic violence to seek legal status on their own without the involvement of their abuser. To qualify for this process, the immigrant must be married to a U.S. citizen or permanent resident, or must have been in a relationship with a U.S. citizen or permanent resident who was abusive. To self-petition under VAWA, the immigrant must provide evidence of the abuse and show that they are likely to suffer **extreme hardship** if they are deported. If the self-petition is approved, the immigrant can then apply for a green card.

In addition to the self-petition process, VAWA also provides other protections. For example, it allows certain immigrants who have been victims of crimes to apply for a U (nonimmigrant) visa, which allows them to remain in the United States while they cooperate with law enforcement in the investigation and prosecution of the crime.

One important aspect of VAWA's self-petition process is that it allows victims of domestic and gender based violence to seek legal status without the knowledge or consent of their abuser. This allows victims to escape abusive situations without fear of retribution from their abuser. It also helps to protect the confidentiality and safety of the victim, as their abuser is not aware that they are seeking legal status. This can be especially important for victims who are afraid that their abuser will harm them or their children if they try to leave. Overall, **VAWA's self-petition process provides a valuable opportunity for immigrants who are victims of domestic and gender based violence to seek safety and security in the United States.**



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# DOMESTIC VIOLENCE AND ASYLUM IN THE US

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**Domestic and gender based violence can be a basis for applying for asylum in the United States.** If a person can demonstrate that they have suffered past persecution or have a well-founded fear of future persecution in their home country on account of their membership in a particular social group, which includes victims of domestic violence, they may be eligible for asylum.

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**To apply for asylum in the United States, an individual must meet the following requirements:**

**Timeliness: The individual must apply for asylum within one year of their last arrival in the United States.** Exceptions to this rule may apply in certain circumstances such as a change in their country of origin's political or social situation, a serious physical or psychological illness or disability, or if the individual was a minor. Exceptions to the one-year deadline are narrow and the individual must provide compelling evidence to support their claim of eligibility for an exception.

**Physical presence:** The individual must be physically present in the United States when they apply for asylum.

**No prior deportation or removal orders:** An individual cannot apply for asylum if they have already been deported or ordered removed from the United States.

**Non-citizenship status:** The individual must be a non-citizen or non-legal permanent resident to be eligible for asylum.

**Meritorious fear:** The individual must demonstrate a well-founded fear of persecution on account of their gender, race, religion, nationality, political opinion, or membership in a particular social group.

**No bars to asylum:** There are certain criminal and security-related bars to asylum, such as participating in persecution, terrorism, and certain other crimes.

After an individual applies for asylum, they will have an initial interview with a U.S. Citizenship and Immigration Services (USCIS) officer during which they will be asked to provide evidence and testimony to support their claim. If the USCIS officer determines that the individual has a credible fear of persecution, the case will proceed to the next stage which is a full asylum hearing in front of an immigration judge.

**To prove a claim of persecution based on domestic violence for an asylum, an individual must provide evidence that supports their claim such as:**

**Personal testimony:** The individual must provide detailed and credible testimony about their experiences of domestic violence including who committed the violence, how often it occurred, and any efforts to seek help or escape the abuse.

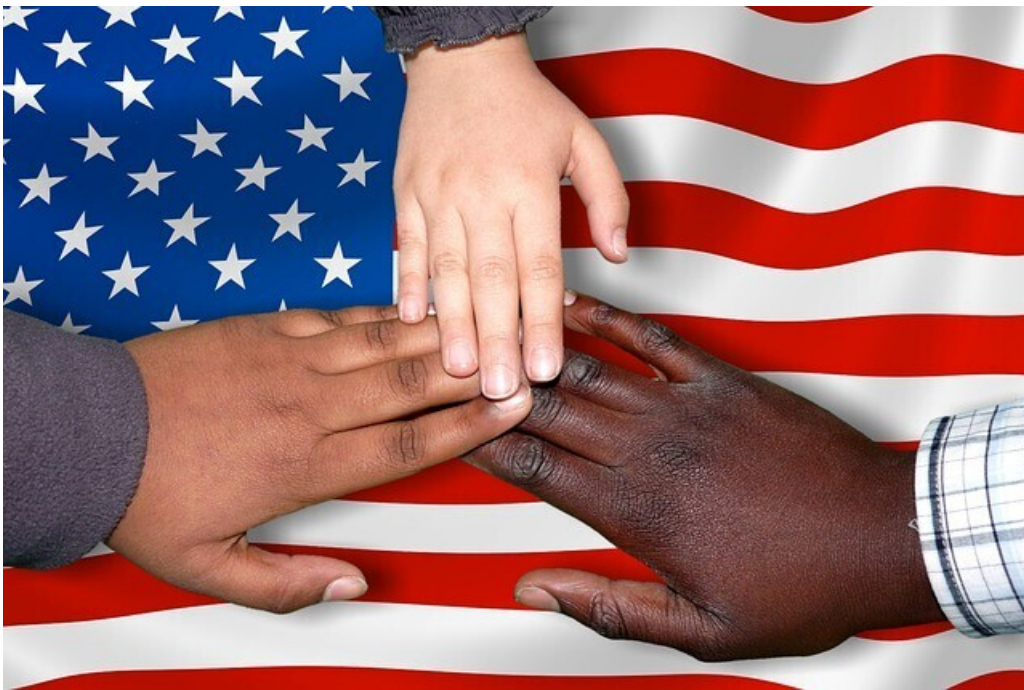
**Documentation:** The individual may provide documentation such as police reports, medical records, or witness statements to support their claim of domestic violence.

**Expert witness testimony:** The individual may provide testimony from experts in relevant fields such as doctors, social workers, psychologists or therapists, or cultural experts, to support their claim of domestic violence and its impact on their fear of persecution.

**Country conditions information:** The individual may provide information about the general human rights situation in their country of origin including the prevalence of domestic and gender based violence and the lack of protection for victims such as lack of support from the police.

**Evidence of past persecution:** The individual may provide evidence of past persecution such as beatings, imprisonment, or torture to demonstrate that they have a well-founded fear of future persecution.

The asylum process is complex and the criteria can be difficult to meet. The length of the asylum process can vary depending on factors such as the individual's location, the complexity of the case, and current government processing times. On average, the process can take several months to several years. An immigration lawyer can best help anyone understand the process and provide guidance and support.





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# THE VICTIMS OF TRAFFICKING AND VIOLENCE PROTECTION ACT (VTVPA)

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**The Victims of Trafficking and Violence Protection Act (VTVPA) is a federal law that was enacted to address the issue of human trafficking in the United States.**

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The VTVPA was signed into law by President Bill Clinton on October 28, 2000. It is considered one of the most comprehensive pieces of legislation to address human trafficking. The VTVPA aims to combat human trafficking by providing protections and services to victims of human trafficking as well as by imposing penalties on traffickers and organizations that profit from human trafficking. The VTVPA also includes provisions to address related issues such as domestic violence and sexual assault.

One of the key components of the VTVPA is the creation of the T nonimmigrant visa, also known as the **"T visa."** **The T visa allows victims of human trafficking to temporarily remain in the United States and to work or study while they assist in the investigation or prosecution of their traffickers** (see page 27). The T visa also provides certain benefits such as access to health care and other social services and the ability to apply for permanent residency after three years.

Another important aspect of the VTVPA is the creation of the U nonimmigrant visa, also known as the **"Uvisa."** **The U visa is for victims of certain crimes including domestic and gender based violence, sexual assault and other crimes who have suffered substantial physical or mental difficulties as a result of the crime (see page 31).**

The VTVPA also includes provisions to address the issue of **forced labor** which is a form of human trafficking. The Act makes it a federal crime to use force, fraud, or coercion to recruit, harbor, transport, or obtain labor or services from a person.

Additionally, the Act provides for penalties on traffickers including fines and imprisonment. It also provides for the forfeiture of assets that were used to commit or facilitate trafficking. The Act also provides for the creation of a fund to be used to provide assistance to victims of trafficking and it establishes a task force to coordinate federal efforts to combat trafficking.

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# THE T VISA

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**The T visa is a type of visa that is available to victims of human trafficking. The T visa was created as part of the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA) and is designed to provide immigration relief to victims of human trafficking.**

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The T visa is intended for victims of severe forms of human trafficking which includes both **sex trafficking** and **labor trafficking**. Sex trafficking involves the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act; in which a commercial sex act is induced by force, fraud, or coercion; or in which the person induced to perform such act has not attained 18 years of age. Labor trafficking includes the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.



To be eligible for a T visa, an individual must have been a victim of a severe form of trafficking and must be physically present in the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or at a port of entry due to trafficking. **The individual must have suffered substantial physical or mental abuse as a result of the trafficking and must be willing to assist in the investigation or prosecution of their traffickers. The individual must also demonstrate that they would suffer extreme hardship involving unusual and severe harm if they were removed from the United States.**

The process of applying for a T visa begins with the individual contacting law enforcement to report the trafficking and to request assistance in the investigation or prosecution of their traffickers. Law enforcement will then provide the individual with a certification or a letter of law enforcement support which the individual can use to apply for a T visa.

The individual must then complete the T visa application and submit it to the U.S. Citizenship and Immigration Services (USCIS) along with the certification or letter of law enforcement support. **In addition, the individual must provide evidence of psychological harm by providing a psychological or mental health evaluation conducted by a mental health professional or psychologist.**

If the application is approved, the individual will be granted a T visa which will allow them to temporarily remain in the United States and to work or study while they assist in the investigation or prosecution of their traffickers. The T visa is initially valid for up to four years and T visa holders may apply for a three-year extension for a total maximum stay of seven years. T visa holders may also be eligible to apply for a change of status to another immigration category if they qualify such as Permanent Residence.

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# VICTIMS OF CRIME AND THE "UVISA"

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**The UVisa is a type of visa that is available to certain victims of crimes who have suffered substantial physical or psychological difficulties as a result of a crime they were a victim of in the US.**

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The Uvisa was first introduced as part of the “Victims of Trafficking and Violence Protection Act” of 2000. The U Visa was created to provide immigration relief for victims of certain crimes such as trafficking of persons, domestic and gender based violence, and other crimes. **The U Visa allows victims to stay and work in the United States while they assist law enforcement in the investigation or prosecution of the criminal activity.**

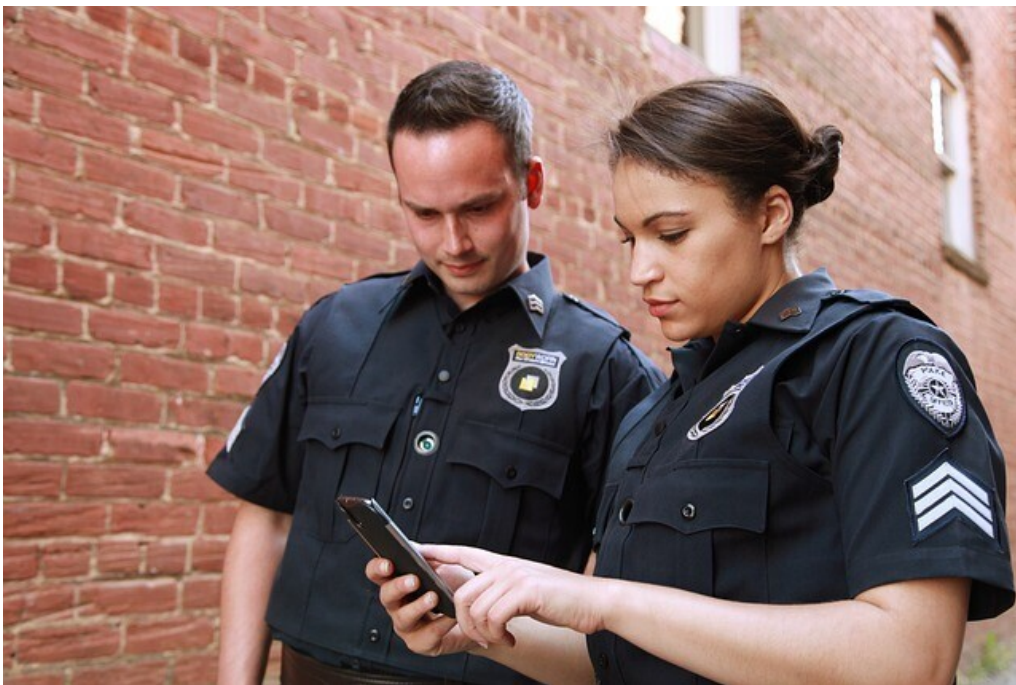
Initially, the Uvisa program was only available to victims of trafficking, but it was later expanded to include victims of other crimes such as domestic and gender based violence. In addition, the Uvisa program was initially only available to victims who had been physically present in the United States. However, it has now been expanded to include victims who were outside the United States and who were willing to come to the United States to assist law enforcement.

To be eligible for a Uvisa, an individual must have suffered substantial physical or mental health difficulties as a result of being a victim of certain crimes, such as:

- **Trafficking in persons: including forced labor, sex trafficking, and debt bondage.**
- **Certain criminal activity: including workplace abuse, physical assault, robbery, rape, torture, incest, domestic violence, sexual assault, abusive sexual contact, prostitution, sexual exploitation, female genital mutilation, being held hostage, peonage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, perjury, or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.**

A Uvisa is not limited to the above-listed crimes. It is also available to victims of any other similar criminal activity that violates the laws of the United States or of any state or Indian tribe. **The individual must provide evidence of psychological harm resulting from the crime by providing a psychological or mental health evaluation conducted by a mental health professional or psychologist.**

The process of applying for a Uvisa begins with the individual contacting law enforcement to report the crime and to request assistance in the investigation or prosecution of the criminal activity. Law enforcement will then provide the individual with a certification or a letter of law enforcement support which the individual can use to apply for a Uvisa. The individual must then complete the Uvisa application and submit it to USCIS along with the certification or letter of law enforcement support. The individual must contact an immigration lawyer for help with the application.



The Uvisa is valid for up to four years. The Uvisa holder may apply for a two-year extension for a total maximum stay of six years. The Uvisa holder may then be eligible to apply for a change of status such as a Permanent Resident status. If a U visa holder marries a U.S. citizen, they may be eligible to apply for a Green Card through the marriage-based immigration process. Additionally, Uvisa holders who have been physically present in the United States for at least 10 years and meet other qualifications, may be able to apply for cancellation of removal and be granted a Green Card. While the Uvisa itself is not a path to Permanent Residence, it can provide a temporary immigration relief for victims of crimes.

**Overall, the Uvisa is a valuable program that allows victims of certain crimes to stay and work in the United States while they assist law enforcement in the investigation or prosecution of the crime.**

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## Domestic and Gender Based Violence

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# WHAT IS GENDER BASED VIOLENCE?

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**Gender-based violence (GBV) refers to any form of violence, abuse, or harm that is perpetrated against an individual based on their gender or sex. This can include physical, sexual, psychological, or economic abuse and it can happen in public or private spaces, within families or intimate relationships, and in the workplace or community.**

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GBV is a serious violation of human rights and can have severe and long-lasting consequences for survivors including physical and mental health problems, social isolation, and economic disadvantage. It is often rooted in unequal power dynamics between men and women and is fueled by harmful social norms and stereotypes about gender roles.

Examples of GBV include domestic violence, sexual assault, sexual harassment, forced marriage, female genital mutilation, and honor killings. It is a pervasive problem that affects people of all ages, races, and socioeconomic backgrounds although women and girls are disproportionately affected.



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# WHAT IS DOMESTIC ABUSE?

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**Domestic abuse is a pattern of coercive and controlling behaviors used by one person to gain power and control over another person in an intimate relationship. It can occur in any type of intimate relationship including married and unmarried couples, same-sex relationships, and familial relationships.**

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Domestic abuse can take many forms, including physical abuse, sexual abuse, emotional or psychological abuse, financial abuse, and stalking. It can involve a range of behaviors, such as intimidation, isolation, manipulation, and humiliation. Physical abuse involves the use of physical force to cause injury or harm to a partner or family member, such as hitting, punching, slapping, choking, or using weapons. Sexual abuse involves forcing or coercing a partner into sexual activity without their consent. Emotional or psychological abuse involves behaviors that are designed to undermine a person's sense of self-worth, such as name-calling, belittling, or constant criticism. Financial abuse involves controlling a partner's access to money or resources, such as forbidding them from working or controlling all of their finances. Stalking involves harassing or threatening behaviors that cause a person to fear for their safety.

Domestic abuse is a serious and widespread problem that affects millions of people around the world. It can have severe and long-lasting consequences for survivors, including physical and mental health difficulties, social isolation, and economic disadvantage.

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# DIFFERENT TYPES OF DOMESTIC ABUSE

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**In general, the term "domestic" refers to a relationship between two people who live together or have lived together in the past, or who have a close familial relationship.**

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In the United States, domestic violence is defined as abusive behavior between intimate partners such as spouses, former spouses, dating partners, or people who have a child together. Some state laws may also include other family members, such as parents, children, or siblings under the definition of domestic violence. In some jurisdictions, the definition of domestic violence may also include abuse between roommates and same-sex couples in their definition of domestic violence.

**Domestic abuse can take many forms. Here are some of the most common types:**

**Physical abuse:** This type of abuse involves the use of physical force against the victim. It can include hitting, slapping, punching, kicking, choking, shoving, pushing, pulling, biting, or any other type of physical harm. It can also involve blocking the victim's path when they are trying to leave the room, holding someone by their arms, and can even include making marks on their body. Anytime a person is repeatedly physically hurt by someone that they live with can be considered domestic abuse.

**Sexual abuse:** This type of abuse involves any sexual act or behavior that is forced upon the victim without their consent or awareness. It can include rape, sexual assault, or any other form of unwanted sexual activity. Abuse includes pressuring someone to have sex when they do not want to. A victim sometimes consents to having sex for fear of what could happen if they say no, fear of retaliation, or fear of violence if they say no. Feeling pressured to consent to sex only so that the abuser does not get mad or offended is sexual abuse. Forcing or pressuring someone to have sex, watch pornography or use drugs/ alcohol to induce sex, is also sexual abuse. Engaging in violent sex or forcing someone to engage in unwanted sexual behavior (for example to watch pornography, engage in prostitution, have sex with someone else, have anal sex, etc.) is sexual abuse. Walking around in the nude, forcing someone else to see them nude when they are uncomfortable, is sexual abuse. Watching pornography or masturbating in any place that is not private and makes someone else uncomfortable, is sexual abuse.

**Psychological or emotional abuse:** This type of abuse involves any behavior that is designed to control, manipulate, or belittle the victim. It can include verbal abuse (insults and name calling), threats, intimidation, isolation, and other forms of emotional harm. It also includes telling the victim that they cannot accomplish their goals, that they are not capable, do not have any rights as immigrants, and /or do not have knowledge or competence to pursue their goals. Being unfaithful and/or accusing someone of being unfaithful is psychological abuse.

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**Financial abuse:** This type of abuse involves controlling the victim's finances or preventing them from having access to money or resources. It can include stealing money, preventing the victim from working or controlling their financial situation. Withdrawing financial support that was promised is also financial abuse. For many immigrants, financial abuse includes demanding money from them, use of violence or psychological abuse when that money is not given. Preventing someone from working, refusing to pay child support, forcing someone to ask /beg for money, keeping their bank cards or preventing someone from having access to their bank account or money, withholding information about their own income, making major financial decisions without someone's input or knowledge, denying someone from basic needs such as food, housing, clothing, transportation, education or medical care, preventing someone from having their own money for their own use, controlling all finances, are all examples of financial abuse.

**Intimidation:** This includes throwing or breaking things around the house, punching walls/ doors, screaming and yelling, pounding fists, blocking someone's way out, hurting pet(s), snatching someone's phone, stealing/ destroying property, giving angry stares and looks, saying things to instill fear, driving recklessly (with or without you in the car) are forms of intimidation.

**Threats:** Threats to harm someone or kill someone, even if they are mad, are still real threats. Even if someone does not believe that they are capable, threats should always be considered real threats no matter what tone the person uses. They could seem like they are joking but a threat is still to be taken seriously. Telling others that they are going to kill someone else or harm someone else, using or threatening to use a weapon (gun, knife, other objects) are serious threats.

Someone may talk about wanting to obtain a gun, someone may have a gun and they let the gun out in the open or pretend to clean it. Someone may talk about knowing how to operate a gun or having acquaintances who have guns; these are examples of threatening behavior.

Owning a gun requires responsible gun ownership behavior. **A responsible gun owner keeps the gun unloaded in a locked cabinet with the ammunition in a separate locked cabinet. This is the proper way to store a gun. Any other way to have a gun that is not locked and secured can be interpreted as threatening behavior.**

Threatening to kill/ harm themselves, to kill/ harm pet(s), to take children away, to destroy property, to hit or throw something are all serious threats and is abusive behavior. **Threats to report someone to the police, immigration, or any other authority so that they are deported is serious abusive behavior. Threats to lie to the police so that the person without legal status is deported is serious abusive behavior.**





**Stalking:** Following, making harassing phone calls, sending harassing emails/ texts/ social media, creating disturbances at someone's work or school, listening to phone conversations, opening mail/ reading mail/ emails, violating privacy/ going through someone's phone, installing GPS tracking devices or apps, spying, monitoring where someone goes, with whom, and what they are doing; these are all examples of stalking and abusive behavior. Calling someone an excessive amount of times when they do not answer, is harassment and abusive. Demanding to know where someone is at all times is stalking.

**Isolation:** Keeping someone away from family or friends, ignoring, giving someone the "silent treatment", frequently hanging up, scaring or threatening friends and family so they stop coming around, bad mouthing friends/ family, criticizing, judging; are all forms of isolation and are abusive behaviors. Prohibiting someone from going to work/ school, the gym, out with friends, etc.; are abusive behaviors. Not allowing friends/ family to visit is isolating.

**Coercion:** Coercion is the act of using force, threats, or intimidation to make someone do something against their will. It involves using power or authority to control or manipulate another person's behavior or decisions. Controlling children, telling someone how to dress or act, controlling in a way that interferes with work, education, or other activities, forcing or pressuring someone to do something illegal, pressuring someone to drop charges or order of protection, to not file a police report, or telling someone they will not sign their immigration documents; are examples of coercion and are abusive behaviors.

**Digital Abuse:** Using technology to control, manipulate, or harass someone. It can include monitoring someone's online activity, sending threatening messages, calling multiple times, or using social media to embarrass or humiliate someone are all examples of abusive behavior.

**Minimizing, Denying, and Blaming:** Making light of the abuse, saying the person being abused is exaggerating or overreacting, saying it is the victim's fault, saying abuse did not happen, blaming someone or something else, and taking no responsibility for the abuse are examples of abusive behavior.

**Using Children:** Telling the children that someone is a bad parent, that the abuse is their fault, telling children that they do not have to listen to the abused parent or follow their rules; are all examples of abusive behavior and using children to coerce or manipulate. Telling someone that their children will be taken away by social services if they make a police report or are undocumented, is an abusive behavior. Telling someone they can legally take their children away, that they will never see their children again, or using visitation time to threaten someone are abusive behaviors. **Someone may threaten to call child services on a person who is undocumented as a way to instill fear. Note that making a false report to child services is a crime and illegal.**

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**Effects of Violence in Children:** Children who witness domestic violence can have a range of reactions both in the short and long term. They may have fear and be scared for themselves, their parents, or other family members. Children may develop anxiety or become overly cautious especially in situations that remind them of the abuse they witnessed.

**Witnessing domestic violence can cause children to feel sad or hopeless and may lead to symptoms of depression.**

Children may act out or engage in disruptive behavior, both at home and at school. Children may experience physical symptoms such as headaches, stomachaches, or difficulty sleeping as a result of the stress and trauma they have experienced. Children may blame themselves for the abuse they witnessed or feel guilty for not being able to stop it. This is why therapy or counseling is very important because the self-blame and guilt may lead to psychological problems in the future if not addressed. Remember that every child reacts differently to witnessing domestic violence and some may not show any visible signs of distress. However, it's very important to provide support and resources for children who have witnessed domestic violence to help them cope with the trauma and build resilience.

**Asking these questions could be a way to assess how domestic**

**violence has affected a child:** Have the children watched the partners be violent? What was their reaction? Have the children seen anyone's injuries such as bruises or bleeding? Do the children ask questions or make comments about the abuse/violence or why it happens? Do the children seem afraid or scared of the abuser? Do the children seem mad, angry, rebellious, afraid, nervous or sad? Are the children isolating themselves? Is the child no longer eating or sleeping? Or overeating/oversleeping? If yes, the child may need support to process the traumatic event.

It's important to note that these types of abuse can often occur together or on their own. **If you or someone you know is experiencing domestic abuse, it's important to seek help and support as soon as possible.**

**National Domestic Violence Hotline:**

<https://www.thehotline.org/>

**800-799-7233**

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# WHEN MALES SUFFER ABUSE

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**Because of feelings of denial and self-blame, many males are not able to recognize that they need help and support.**

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Research has shown that males who experience physical abuse from a partner may respond in a variety of ways, including:

**Denial:** Some males may deny or minimize the abuse, either to themselves or others. They may feel ashamed or embarrassed to admit that they are being abused or may fear that they will not be believed or taken seriously.

**Self-blame:** Some males may blame themselves for the abuse, believing that they somehow provoked or deserved it. They may feel guilty or ashamed and may struggle with feelings of low self-worth.

**Males are significantly less likely to call the police on their abuser.**

They may not recognize abusive behavior as abuse. They may fear that the police will not believe they are being abused or may not consider the abusive behavior as "serious" abuse. Many males are threatened that if they call the police, their abuser will turn the blame on them. In most cases of domestic abuse where the police are called, males are more likely to be arrested and/or removed from the home, whether they are the abuser or not.

Many times the abuse can be subtle and males have difficulty recognizing the behavior as abusive. Slaps, pinches, ear pulling for example, may vary from culture to culture but can be considered a form of physical abuse. Frequent monitoring, harassment (such as frequent false accusations of infidelity), disturbances at work, and demanding money; for example, are other forms of common abuse seen in males. Most males who suffer from domestic abuse state that they suffer more from the psychological abuse (putting down, insults, criticism, yelling, threats, etc.) than any form of physical abuse.

VAWA, or the Violence Against Women Act, provides federal resources to support the investigation and prosecution of violent crimes against women as well as funding for victim services and prevention programs. While VAWA is primarily focused on addressing violence against women, it also includes provisions that protect male victims of domestic violence and sexual assault.



**Domestic violence and abuse can occur in relationships of any gender. While the majority of victims who seek services under VAWA are female, males can also be victims of these types of violence and may seek help and support through VAWA programs.**

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# WHY DOES ABUSE HAPPEN?

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**There is no exact "cause" or explanation for domestic and gender based violence. There are, however, a number of complex dynamics and factors that may trigger someone to act with violence and aggression towards others.**

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Some of these factors can include:

**Childhood experiences:** People who have experienced abuse or trauma in childhood may be more likely to perpetrate abuse in their adult relationships. Note that not every person who is abused in childhood will grow up to abuse others in adulthood. However, most people who do abuse others, have themselves being abused.

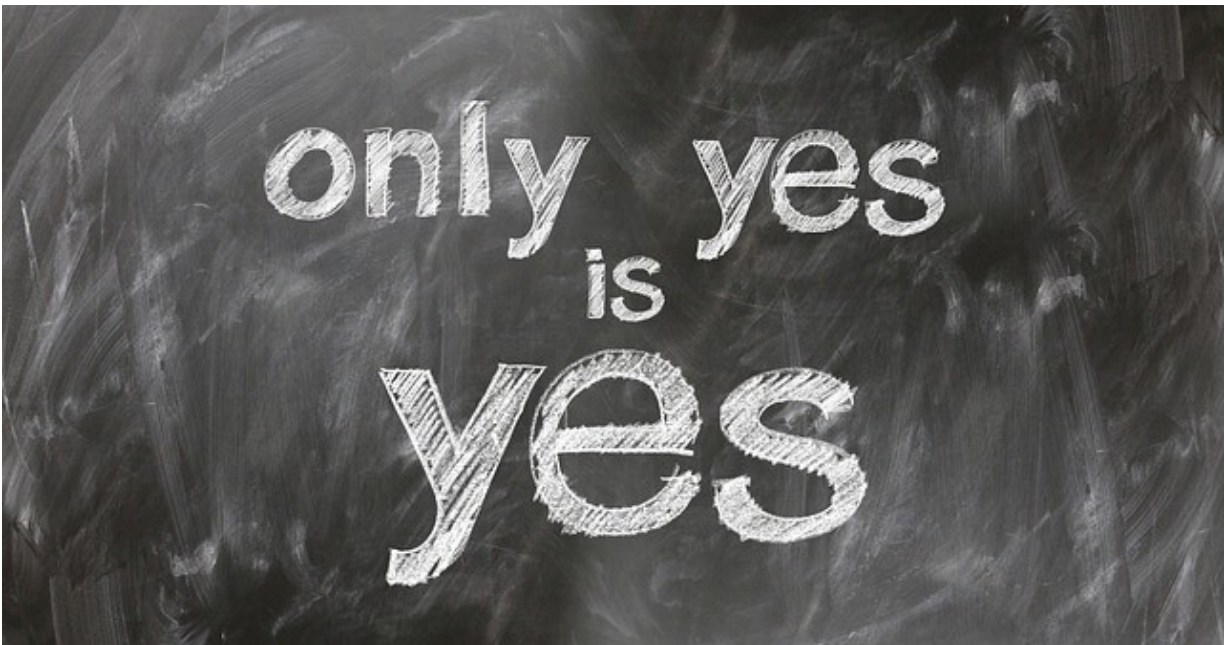
**Substance abuse:** People who abuse drugs or alcohol may be more likely to engage in abusive behaviors. Substance abuse can lower inhibitions and increase impulsivity, leading to violence or aggression.

**Mental health:** People who have mental health difficulties such as depression, anxiety, or personality disorders may be more likely to engage in abusive behaviors. Mental health difficulties can affect judgment, impulse control, and emotion regulation.

**Relationship dynamics:** People who are in relationships that are abusive or controlling may engage in abusive behaviors as a way to gain power or control. This can be a way of coping with their own feelings of powerlessness or fear.

**Nothing excuses or justifies domestic violence or abuse. Regardless of the underlying causes, abuse is always unacceptable and harmful to both the victim and the perpetrator. Domestic violence and sexual assault can happen to anyone regardless of their gender and all victims deserve support and assistance.**

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# CHILD ABUSE & NEGLECT

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**Child abuse is any intentional act or series of acts that cause harm or distress to a child. This can include physical abuse, sexual abuse, emotional abuse, and/ or neglect.**

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**Physical abuse** involves the use of physical force that results in injury, pain, or impairment. Ear pulling, hair pulling, poking, pushing, shoving, pulling, and even spanking, for example; can be considered physical abuse; especially if bruises or marks are left in the child's body.

**Sexual abuse** is any sexual activity with a child. A minor under the legal age of 18, can not consent to sexual activity; be it as an observant or participant.

**Emotional abuse** involves the use of words, actions, or inactions that cause harm to a child's emotional well-being. This can include the use of demeaning adjectives, nicknames, insults, yelling, and /or failing to provide praise and encouragement; important factors to a child's mental and emotional well being.

**Neglect** involves the failure to provide for a child's basic needs, such as food, shelter, medical and mental health care, education, and adequate supervision. A child under the age of 16 must attend school.

## What are the child labor laws in the US?

The Fair Labor Standards Act (FLSA) sets the federal minimum age for employment at 14 years old, with some exceptions. In non-agricultural work, 14- and 15-year-olds may work outside of school hours in certain jobs that are deemed non-hazardous such as office or retail work.

However, they may not work more than 3 hours on a school day or 18 hours in a school week. They may work up to 8 hours on a non-school day or 40 hours in a non-school week. For 16- and 17-year-olds, there are fewer restrictions on working hours and job types. They may work in non-hazardous jobs for any number of hours and in any job that is not explicitly prohibited.

An employer can pay a minor less than the federal minimum wage of \$7.25 per hour, for a limited period of time. The FLSA allows: a minimum wage of at least \$4.25 per hour if the minor is less than 20 years old in the first 90 consecutive calendar days of employment. Employers who violate these laws can face penalties and minors and their parents or guardians can report violations to the **U.S. Department of Labor's Wage and Hour Division.**

## What is child neglect and abandonment?

**Child neglect is a form of child maltreatment that occurs when a caregiver fails to provide for a child's basic needs such as food, shelter, clothing, medical care, and supervision.** Neglect can be intentional or unintentional and can be caused by various factors such as poverty, substance abuse, mental health issues, or lack of knowledge or skills.

**Child abandonment** occurs when a caregiver deserts a child and fails to provide any form of care or support. This can involve leaving a child in a dangerous or unsafe situation (a car, for example) or failing to provide basic necessities.

Children who experience neglect and abandonment may have difficulties forming attachments and relationships. They may struggle with emotional regulation and may express behavioral difficulties. Child abuse, neglect, and abandonment can be grounds for intervention by child protective services and may result in legal action against the caregiver.



## Is “spanking” child abuse?

The legality of spanking a child for discipline purposes in the US varies by state. In some states, spanking is legal and considered a form of reasonable discipline while in other states, it is illegal or restricted.

Currently, 66 countries have banned corporal punishment of children but the US has not yet done so on a federal level. However, several states have outlawed corporal punishment in schools, and some have restrictions on its use in other settings. Additionally, some states and jurisdictions define excessive or abusive corporal punishment as a form of child abuse and prohibit it under child abuse laws.

**Illinois law prohibits the use of physical force as a means of discipline that causes bodily harm or pain which includes spanking that is severe enough to cause injury (bruising).** Parents who use physical discipline, including spanking, should do so in a way that is reasonable and does not cause injury or harm to the child.

Spanking and other forms of physical punishment can have negative effects on a child's physical and emotional well-being and research has shown that non-physical forms of discipline such as **positive reinforcement** and setting clear boundaries can be just as effective in promoting positive behavior.

**Parents and caregivers are encouraged to use non-physical forms of discipline and to seek professional guidance if they are struggling to manage their child's behavior.**



## **What are the Child Protective Services?**

**Child protective services (CPS) is a government agency in the US that is responsible for investigating and intervening in cases of suspected child abuse or neglect.** CPS is designed to protect the safety and well-being of children who may be at risk of harm from their parents or caregivers. When a report of suspected child abuse or neglect is received, CPS will conduct an investigation to determine if there is evidence of maltreatment. This may involve conducting interviews with the child, the alleged perpetrator, and other relevant parties, as well as gathering medical or other evidence.

**If CPS determines that a child is at risk of harm, they may take a variety of steps to protect the child, including:**

- Removing the child from the home and placing them in foster care or with another relative or guardian.
- Providing services or support to the family, such as counseling, parenting classes, or substance abuse treatment.
- Initiating legal action to terminate parental rights or seek custody or guardianship of the child.

CPS agencies work closely with other organizations such as law enforcement, schools, and medical professionals to identify and respond to cases of child abuse or neglect.

### **Who and what is a “mandated reporter”?**

Mandated reporters of child abuse are individuals who are required by law to report suspected child abuse or neglect to CPS or law enforcement.

Mandated reporters typically include professionals who work closely with children such as:

Teachers and school personnel

Health care professionals, such as doctors, nurses, and social workers

Mental health professionals, such as psychologists and counselors

Child care providers, including day care providers and camp counselors

Law enforcement officers

Clergy members or other religious leaders

Social service workers or advocates

Foster parents or other caregivers

Only after completing a full investigation, CPS will make a determination whether the allegations of abuse or neglect are substantiated or unfounded. If the allegations are substantiated, CPS will take appropriate action to protect the child and ensure their safety.

The Illinois Department of Children and Family Services (DCFS) is in charge of protecting the health, safety, and best interests of children. DCFS offers protective services in order to prevent any further harm to the child and to other children in the same environment or family. They stabilize the home environment and preserve family life whenever possible.

### **Important Terms to Know**

**"Temporary protective custody"** means custody within a hospital or other medical facility such as a licensed foster home, group home, or other institution.

**"An unfounded report"** means that after an investigation, there was no credible evidence of abuse or neglect.

**"An indicated report"** means that it was determined that credible evidence of the alleged abuse or neglect exists.

**"An undetermined report"** means that it was not possible to initiate or complete an investigation on the basis of lack of information.

**"Perpetrator"** means a person who, as a result of an investigation, has been determined to have caused child abuse or neglect.

**Any person who knowingly transmits a false child abuse report, commits the offense of disorderly conduct. A violation of this provision is a Class 4 felony.**

In Illinois, anyone can report suspected child abuse or neglect by calling the Illinois Department of Children and Family Services (DCFS) Child Abuse Hotline at

**1-800-25-ABUSE (1-800-252-2873).**

**This hotline is available 24 hours a day, seven days a week.**



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# VAWA AND DOMESTIC ABUSE FROM A CHILD

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**Not very often, but it does happen. The child that once was a “good kid” can grow up to become abusive towards their own parents or caregivers. How does this happen?**

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It turns out that around the age of 13-16, children enter a developmental stage where they must develop their own sense of identity that is separate from their parents/ caregivers. Many parents call this “the rebellious stage”. It is in fact, a natural and normal stage of development where children must act in a way that is in accordance with how they identify as and as an attempt to define clear boundaries and a (psychological) separation from their parents in order to define their own person (sense of identity).

This is a difficult stage for parents/ caregivers who feel that they must always have control over their children and that their children must always obey rules. Yes, it is ok to have rules, but these must be flexible and adapt to the psychological needs of each adolescent. Some teens need more or less control than others. Some teens may need more space and privacy than others. And some teens may need more independence and autonomy than others. Parents must adapt to the needs of each child and rules must be flexible.

One of the most important aspects to keep in mind during this troublesome stage is the need to maintain a strong connection/ bond between parent/ caregivers and teen where the teen trusts that their parent/ caregiver is on their side and is there to provide support and care, even though they may dislike the rules.

**Immigrant parents who have been victims of domestic abuse at the hands of their (US citizen) adult child (over 21 years old) can qualify for a VAWA petition to adjust their legal status. A VAWA petition does not require the signature or support of the US citizen.**



There are several factors that can contribute to a child growing up to become abusive towards their parents/ caregivers. Here are some of the factors that can contribute to abusive behavior towards parents:

**Childhood trauma:** Children who have experienced abuse or trauma themselves may be more likely to become abusive towards their parents as they grow up. Trauma can affect a child's emotional development, making it difficult for them to regulate their emotions and respond appropriately to stressful situations. Children of immigrant parents are particularly vulnerable to bullying, lack of support, and other psychological effects of generational differences between themselves and their parents such as language, sociocultural, and communication difficulties.

**Mental health factors:** Mental health disorders such as conduct disorder, oppositional defiant disorder, and antisocial personality disorder can lead to aggressive behavior and difficulty controlling impulses. Parents most likely had a very difficult time enforcing discipline at home from an early age. The child probably exhibited behavior and conduct problems at home and school that were not addressed early on.

**Substance abuse:** Drug or alcohol abuse can impair judgment, lower inhibitions, and increase the likelihood of violent behavior. Around the ages of 13-18, adolescents explore drug and alcohol use. If drug/ alcohol use persists, it can give rise to more behavior and conduct problems. It is normal to explore, but drug and alcohol use in adolescents is not advisable as it impacts healthy brain development.

Some teens **auto-medicate** with certain drugs/ alcohol to cope with other mental health difficulties, manage attention and difficult emotions, boredom, relationship distress, and/ or as a sign that they need special care and attention. **Parents are advised to seek therapy and counseling for their children if they suspect that their teen is auto-medicating with the use of un-prescribed drugs or alcohol.**



**Learned behavior:** Children who grow up in households where any type of abuse (physical or psychological) is normalized may believe that it's an acceptable way to solve problems or exert control. Children who become abusive may have also witnessed violence outside of the home, such as in the case of gang-ridden violent neighborhoods. They may have observed an unbalanced dynamic and ally with one specific parent against the other. It is important that both parents work together to enforce discipline at home.

**Power imbalances:** As children grow up and become adults, they may feel a sense of powerlessness in their relationship with their parents/ caregivers, leading to a desire to exert control through abusive behavior. It is important to give teens enough independence and autonomy to make their own decisions as developmentally appropriate to avoid any need for over controlling and abusive behavior as they grow up.



**There can be several reasons why parents/ caregivers may have difficulty controlling their child or teen's abusive behavior. It's important to note that parents are not responsible for their child or teen's abusive behavior and it's never acceptable to blame them for their child's actions.**

However, some possible reasons why parents may struggle to control their child's or teen's abusive behavior are:

**Lack of knowledge or skills:** Parents may not have the knowledge or skills to manage their child's behavior effectively. They may not know how to set appropriate boundaries or consequences for abusive behavior, or they may struggle to communicate effectively with their child.

**Lack of bonding time:** Many times, immigrant parents are consumed by their long working hours. Most of the time immigrants must work low-paying jobs to sustain a large family, spending the majority of their day outside of the home working and missing important quality time with their children. Quality time is important for bonding. Bonding is an important factor of effective discipline.

**Fear of their child:** If a child's behavior is particularly aggressive or violent, parents may fear for their own safety and avoid confronting their child about their behavior. Many times, children grow up to be much taller and larger than their parents.

**Denial:** Some parents may struggle to acknowledge that their child is abusive, believing that their child is "just going through a phase" or that their behavior is not as serious as it actually is. Parents have a hard time defining what are the early signs that a child may become more aggressive or abusive. Parents may not realize until it is too late to change or correct the child's behavior.

**Guilt or shame:** Parents may feel guilty or ashamed about their child's behavior, especially if they believe they have contributed to it in some way or is due to their lack of exercising effective discipline. These feelings can make it difficult for parents to confront their child about their behavior or seek help early on. However, there are other factors at play that aren't in the parent's control such as mental health disorders and substance abuse.

**Lack of resources:** Parents may struggle to access appropriate resources and support to help them manage their child's behavior. This could include financial barriers to accessing mental health services or a lack of knowledge about available resources. Most immigrant parents believe that there are no resources available or affordable to them.

**If a parent realizes that their child is becoming abusive, it's important to take action as soon as possible to address the behavior.**

**Here are some steps that a parent can take:**

**Seek professional help:** The parent and child can benefit from seeking help from a mental health professional such as a therapist, counselor, or clinical psychologist. A mental health professional can provide an assessment of the child's behavior, identify any underlying mental health issues and provide guidance and support to help the child change their behavior.

**Practice Effective Discipline which includes:**



**Connecting and bonding with child/ teen:** Spending time dedicated exclusively to connect and bond with a child increases the effectiveness of discipline efforts. Set the stage for effective discipline by spending quality time with the child/ teen. Asking the child what they like to do, taking an interest in their activities and interests, listening to them, laughing together, and establishing common play and fun activities together are some examples of ways to bond and connect with a child.

**Set clear boundaries, rules, and expectations that are developmentally adequate to the needs of the child:** Parents should set clear boundaries, rules and expectations for their child's behavior. These should be appropriate to the needs and developmental age of the child. Seek help and support to delineate these healthy boundaries, rules, and expectations. Parents should communicate to the child that abusive behavior is not acceptable and establish clear consequences for any abusive behavior early on.

**Set clear consequences for unacceptable behavior:** Healthy consequences can include the removal of benefits such as allowances, electronics, toys, activities, etc. The consequence should be well defined as in explaining the reason for the consequence, what the consequence is, and when the consequence will end. The consequence should be just and appropriate to the offense. Physical punishment is not a healthy consequence. Giving the child/teen a choice for a just consequence can help in modifying the unacceptable behavior. Use natural consequences as much as possible.

**Be consistent:** It's important for parents to be consistent in enforcing consequences for abusive behavior. Consistency helps the child understand the seriousness of their behavior and helps them learn to regulate their emotions and behavior.

**Provide positive reinforcement:** Parents should provide a lot of positive reinforcement for positive behavior. This can include praise, rewards, affection, and other forms of positive feedback to encourage the child to continue making positive changes.

**Create a safe environment:** Parents should create a safe environment for themselves and their child. If the child's behavior is particularly aggressive or violent, the parent may need to take steps to ensure their safety, such as seeking temporary housing or involving law enforcement.

**It's important to remember that abusive behavior is never acceptable, and it's never the fault of the victim. Seeking professional help can be a critical step in helping the child change their behavior and prevent further harm. Parents are not always to blame for their child's abusive behavior and it's never acceptable for a child to be abusive towards their parents.**

If you or someone you know is experiencing abuse, seeking help from a mental health professional or a domestic violence hotline can be an important step towards safety and healing.

**National Domestic Violence Hotline Hours: 24/7.**

Languages: English, Spanish and 200+ through interpretation service

**800-799-7233**

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## Labor Trafficking and Employment Abuse

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# LABOR TRAFFICKING

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**Labor trafficking is a form of modern-day slavery in which individuals are forced or coerced into working under exploitative and inhumane conditions. It involves the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of exploitation.**

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Victims of labor trafficking are often subjected to physical and emotional abuse as well as being deprived of their basic human rights such as freedom of movement, adequate food, water, rest, and access to healthcare. Labor trafficking can occur in a variety of industries, including agriculture, manufacturing, domestic work, construction, and hospitality.

**In the United States, several federal laws combat labor trafficking.**

**These laws include:**

**1. The Trafficking Victims Protection Act (TVPA) of 2000:** This is the primary federal law that addresses human trafficking in the United States. The TVPA provides penalties on traffickers including fines and imprisonment and it also provides for the forfeiture of assets that were used to commit or facilitate trafficking.

**2. The Forced Labor Statute:** This law prohibits the use of forced labor in any form including debt bondage, peonage, and slavery. It carries a penalty of up to 20 years in prison and fines.

**3. The Peonage Statute:** This law prohibits the use of peonage, which is a form of forced labor in which a person is forced to work as a form of payment of a debt. Penalties for violating this law include fines and up to 20 years in prison.

**4. The Labor-Management Relations Act:** This law prohibits employers from restraining or coercing employees from joining labor organizations. It also prohibits employers from restraining or coercing employees from engaging in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

**5. The Fair Labor Standards Act:** This law establishes minimum wage and overtime pay standards. It also prohibits employers from using child labor.

**6. The Migrant and Seasonal Agricultural Worker Protection Act:** This law provides protections for migrant and seasonal agricultural workers, including provisions related to wages, housing, and transportation.

**7. The National Labor Relations Act:** This law guarantees the right of employees to form, join, or assist labor organizations and to engage in collective bargaining.

**8. The Immigration and Nationality Act:** This law contains provisions that allow the government to prosecute employers who knowingly hire and employ unauthorized aliens and also provides for immigration relief for victims of trafficking.

**All these laws provide enforcement mechanisms that allow the government to investigate and prosecute labor trafficking cases and also provide for immigration relief for victims of trafficking.** They provide penalties on traffickers including fines and imprisonment and it also provides for the forfeiture of assets that were used to commit or facilitate trafficking.





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# WORKPLACE CRIME AND UVISA PETITIONS

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**Immigrant workers face higher risks of abuse and exploitation in the workplace and may fear retaliation if they come forward to report exploitation and abuse.**

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**A New Understanding of Substantial Abuse: Evaluating Harm in  
U-Visa Petitions for Immigrant Victims of Workplace Crime**

Research By: Eunice Hyunhye Cho, Giselle A. Hass, & Leticia M.  
Saucedo

UC Davis Legal Studies Research Paper Series Research Paper No. 439

August 2015

**This article examines the legal concept of "substantial physical or mental abuse" suffered by immigrant victims of crime in the workplace and how it relates to the ability to qualify for a U visa.**

Immigrant workers experience high rates of basic labor law violations including sexual violence against immigrant women workers and working off-the-clock without any pay. They are also more susceptible to dangerous working conditions. Federal and state labor rights enforcement agencies have begun to certify U visa applications for immigrant victims of workplace-based criminal activity. The U visa increases workers' trust in labor and civil rights law enforcement agencies and allows them to access employment remedies.

**U visa recipients receive lawful status for up to four years and may receive derivative visas for dependents due to crimes such as:**

Workplace aggression

Sexual assault, rape, sexual harassment

Physical assault

Coercion

Threats to report to immigration, threat to deport, threat to fire

Blackmail

Extortion

Exploitation, forced servitude

Tampering with evidence, obstruction of justice

Humiliation, denigration

Lack of recognition of abilities, skills, talents, and qualifications

Given lesser-valued job assignments

Lack of opportunities for advancement

Gender discrimination, sexual orientation discrimination

Emasculation due to lack of legal status

Isolation from family and friends

Intimidation with threats, coercion, manipulation, and verbal abuse

Fraud in labor contracting

Eviction

Seizure of identity documents

Restriction on movement

Control of financial accounts and wage payments

Workplace bullying

In order to qualify for a U visa, an immigrant worker must have been a victim of a qualifying criminal activity, have information concerning the qualifying criminal activity, and have suffered substantial physical or mental difficulty.

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### **U Visa Qualifying Crimes in the Workplace**

Twenty-eight qualifying criminal activities trigger eligibility under U visa statutory provisions, including domestic violence, sexual assault, blackmail, extortion, felonious assault, fraud in foreign labor contracting, involuntary servitude, peonage and trafficking, and perjury.

A series of acts taken together may constitute substantial abuse even where no single act alone rises to that level.

**Workplace aggression** includes glares, verbal threats, deception, manipulation, coercion, sexual contact, and physical assault. Workplace aggression causes negative consequences for victims' mental health, including depression, post-traumatic stress disorder, panic disorder, and other emotional harm.

**Workplace bullying** is a gradual process where an individual is subjected to indirect and subtle forms of psychological violence in a systematic way and over a prolonged period of time. Bullying includes work-related behaviors such as unreasonable deadlines, unmanageable workload, excessive monitoring, withholding of crucial information, sabotage, work devaluation, as well as interpersonal behaviors such as gossip, insulting remarks, scolding, threats, excessive teasing, social exclusion, and persistent criticism. Workplace bullying can cause trauma similar to trauma of other abuse such as domestic violence and even mild forms of torture.

**A key component is the imbalance of power in the relationship and the victim's limitations to defend him or herself.**

Research indicates that victims of workplace bullying, violence, and abuse experience negative physical and psychological consequences including headaches, neck, back, stomach pain, sleep disturbances, heart-related health issues, and miscarriage.

**Workplace abuse** can lead to mental health problems such as depression and post-traumatic stress disorder. Victims of workplace abuse report higher levels of general stress and lower levels of psychological health as well as lower satisfaction in life due to high levels of negative emotions and mood, anger, and anxiety.

**Victimization and exploitation at work affects not only direct victims, but also co-workers who witness the victimization of their peers and thus fear for their own safety and well-being.**

This secondary trauma (also called vicarious or bystander traumatization) is well-established. The emotional consequences of exposure to victimization of others are similar to those suffered by direct victims.

Workers often report extreme distress after witnessing traumatic events to the same degree as if they had been the direct victim. The U visa regulations contemplate bystander or indirect victimization and have incorporated these types of emotional consequences into the definition of victimhood.

**Immigrant workers face significant barriers to successfully confronting workplace abuse.** Immigrants who come from war-torn, poverty-stricken, high crime-rate or natural disaster-devastated nations are likely to have experienced traumatic events in their past which can lead to psychological fragility and exacerbate the psychological harm from workplace abuse.

**Immigrant victims of workplace abuse are often unable to leave their jobs, resulting in significant and cumulative negative psychological consequences.** Victims often learn to submit and comply in order to survive, becoming depressed, helpless, and emotionally numb.





Immigrant victims of workplace criminal activity may, by necessity, choose to engage in passive coping strategies out of fear that engaging in active strategies may lead to loss of a job, exposure to law enforcement, hardship to their family members in the United States or in their country of origin, or detention and deportation. This inability to leave a job results in prolonged and repeated exposure to abuse, associated with more severe psychological harm. Victims of abuse in the workplace who are economically dependent on abusive employers and lack job mobility often suffer greater psychological harm than those who can more easily leave a job.

**Low-wage immigrant workers are particularly vulnerable to workplace abuse because of their high level of economic dependence on an employer, and because they may have incurred significant debt to travel to the U.S.**

Immigrant workers whose work visas are specifically tied to a particular employer face additional vulnerabilities. Economic pressures can lead workers to acquiesce to extremely long overtime hours or to work when sick or injured. For these workers, avoiding workplace abuse is an impossible choice in the face of homelessness, hunger, and failure to meet family responsibilities. Inability to leave an abusive employment also results in prolonged and frequent exposure to abuse associated with an increased severity of psychological harm.



## **Lack of Work Authorization or Legal Immigration Status**

Immigrant workers who lack work authorization, legal immigration status, or whose legal status is wholly dependent on their relationship with their employers face particular vulnerability to abuse. An abusive employer may use a worker's legal status as a means of control by threatening to terminate employment—which implicates more dire consequences for undocumented workers who cannot easily replace employment; or contact immigration authorities if a worker reports abuse.

An abusive employer or supervisor may feel safe in the knowledge that an undocumented worker will not bring charges or report abuse or criminal activity out of fear of loss of status, deportation, or unemployment. Even where abuse has been reported and is being investigated, an employer or supervisor could threaten deportation for cooperation with authorities, exploiting the worst fears of the immigrant worker.

## **Power Differentials Between Employer and Employee**

Undocumented immigrants and guest workers are likely to be in employment relationships with heightened power differentials between workers and management. These power differentials can be exploited by abusive supervisors and employers, leading to diminished sense of personal value and diminished ability to cope with workplace abuse.

Although power disparities underscore most employer-employee relationships, immigrant workers face additional status differences based on legal status, race or ethnicity, mastery of English language, and acculturation. Immigrant workers may also adhere to employment structures and cultural values that require greater deference to superiors and elders. For Example, immigrant women workers may feel required to defer to men. These cultural values can be exploited by abusive supervisors and employers. Some will use power dynamics to further overt abuse, while others engage in overly friendly and paternalistic behavior to advance their own exploitative agendas.

**Immigrant workers in the U.S. often feel forced to accept jobs of lower status than in their native countries.** In such situations, a worker may suffer from loss of identity and status leading to a diminished sense of personal value, an additional obstacle to constructively respond to workplace abuse. These power differentials lead immigrant workers to conclude that they lack sufficient status and leverage to remedy abusive conditions. Indeed, research has found that workers with less perceived power in the workplace or who conclude that their actions would not result in change, may experience more significant psychological harm.

Lack of language proficiency or illiteracy limits a worker's ability to understand critical documents related to workplace conditions, such as contracts, rights, guidelines, pay, and benefits. This can lead to increased isolation and a sense of depression and hopelessness for victims of abuse.



## **Gender, Gender Identity, and Sexual Orientation in the Workplace**



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**Women are often subject to overt discrimination in male-dominated work environments, including lesser-valued job assignments, lack of opportunities for advancement, receiving lower pay, and subjection to sexual harassment, sexual assault, and rape.**

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Victims of sexual harassment or sexual assault are often deterred from taking active steps to remedy the situation due to fear of losing social status, damage to reputation, and personal retribution. Unscrupulous employers or superiors may require sexual favors and submission to sexual behaviors as a condition of employment or job related opportunities. For a female immigrant worker, sexual slurs or innuendos carry additional consequences of subordination because, by virtue of her status and the possibility of deportation or threats to her citizenship status, she cannot complain as forcefully as a native-born worker.

**Lesbian, gay, bisexual and transgender** workers are particularly vulnerable to abuse in the workplace and may even contribute to it in an attempt to regain a sense of personal control. Lesbian, gay, bisexual and transgender (LGBT) workers are particularly vulnerable to jokes, slurs, ridicule, discrimination, and other more abusive or assaultive behavior in the workplace.

Workers who wish to keep their sexual orientation or gender identity a private matter, especially if their cultural values make this issue taboo, will tolerate abuse or force themselves to play out traditional gender roles in order to protect themselves. Individuals who are persistently harassed and mistreated and whose behavioral freedom is restricted may engage in cognitive adjustment and minimize or deny the impact of the abuse, and may even contribute to it in an attempt to regain a sense of personal control

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**Immigrant men suffer from gendered forms of workplace abuse in addition to sexual harassment.** They are forced into subservient, complacent and differential roles, identities stereotypically gendered as female when employers take advantage of their relatively “weak citizenship status”.

Moreover, by virtue of their immigration status, immigrant men in a department where women are being harassed will not perceive that they have the ability to speak out against such harassment to assume the role of protector, which is a role that is culturally valued in most ethnic groups.

The risks and consequences are much more severe than simply retaliation, as these men remain quiet due to veiled or explicit threats of deportation. Not only do immigrant male workers view themselves as emasculated in their inability to rectify sexual harassment against their female co-workers, this disempowerment also occurs by reference to their immigration status.

## Isolation

Isolation, whether social, geographic, linguistic, or social, correlates with the presence of abuse as well as heightened mental health consequences for the victim of abuse. Immigrant workers in geographically isolated areas lack access to support systems, including other more acculturated immigrant communities.

Often, immigrant family bonds are disrupted in the process of migration, which reduces social support and increases vulnerability to workplace abuse.



## **Lack of Knowledge of or Ability to Exercise Legal Rights**

Many immigrant workers lack knowledge regarding their rights as employees, and many do not seek to enforce their rights out of fear of retaliation or lack of effective advocacy measures. In some cases, immigrant workers from countries where human rights are routinely violated, may believe that abusive working conditions are the “normal state” of affairs. Even where workers are aware that abusive working conditions violate the law, they do not seek to enforce such rights out of fear of retaliation or because of lack of effective advocacy measures.



## **The Unique Role of Employer Threats and Retaliation in Workplace Abuse**

**Threats made by an employer to a worker may meet an element of several U visa-qualifying crimes, including witness tampering, obstruction of justice, blackmail, extortion, involuntary servitude, and trafficking.** For example, an employer's threats to deport, fire, evict, report to law enforcement, or physically harm a worker or a worker's family member to induce a worker to refrain from participation in a law enforcement investigation or bringing charges may constitute witness tampering or obstruction of justice. Likewise, such threats made by an employer to obtain property of value or services from a worker constitute extortion or blackmail. Threats, implicit or explicit, of force, physical restraint, serious harm, abuse of legal process, constitute involuntary servitude or trafficking.

Employers may hire immigrant workers because they consider them complacent and subservient, and therefore more willing to accept employer control. As one study found, employers explicitly referred to their preference for undocumented immigrants because of workers' lack of work authorization. This preference can surface, often subtly, in how an employer signals to an employee that he seeks compliance and submissiveness.

Employers are also highly likely to retaliate against immigrant workers who seek to exercise their labor rights. Workers threatened by employers may experience significant mental distress, and may be particularly vulnerable to aggravation of underlying chronic stress or trauma caused by long-term abuse.



The U visa provisions include obstruction of justice, witness tampering, and perjury as enumerated qualifying criminal activities. Employers may try to thwart an investigation by labor or civil rights law enforcement agencies by threatening workers with deportation, blacklisting, and refusal to rehire. The federal criminal code includes several examples of obstruction of justice, witness tampering and perjury that encompass retaliatory activity by employers. These examples include intimidation, threats, corrupt persuasion, or misleading conduct with the intent to cause a person to withhold testimony or records.

Employers who perjure or obstruct the justice system or report immigration status of workers in retaliation for exercising labor rights are violating the Fair Labor Standards Act, Title VII of the Civil Rights Act, and the National Labor Relations Act.



The National Labor Relations Board has repeatedly concluded that an employer's threats to investigate immigration status in retaliation for a worker's exercise of labor rights constitute an unfair labor practice in violation of Section 8(a)(1) of the NLR Act. Federal courts have also concluded that inquiries into immigration status including completion of I-9 forms, in the midst of Title VII discrimination litigation, constitute retaliation.

Employers that intimidate workers with threats, coercion, manipulation, and verbal abuse can inflict substantial harm on workers, including diminished sense of self-worth, anxiety, depression, and post-traumatic disorders.

**Extortion** is the wrongful use of force, violence or fear to obtain something of value from another person, and **blackmail** is the threat to reveal information (regardless of veracity) unless a demand is met.

Employers commit extortion or blackmail of their workers when threatening violence or other action to obtain a worker's property, including unpaid wages. Given undocumented immigrants' reluctance to interact with police due to fear of deportation, this group is particularly vulnerable to extortion.

The harm suffered by victims of extortion and blackmail is not merely financial. Immigrant victims of extortion and blackmail may suffer significant distress and fear as a result of an employer's threats to fire them or report their immigration status to law enforcement officials. These threats can lead to long-term consequences, including substance abuse, isolation and withdrawal, eating and sleeping disorders.





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## Fraud in Foreign Labor Contracting

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**In 2013, Congress added fraud in foreign labor contracting to the list of U visa qualifying crimes. Employers may commit fraud in foreign labor contracting by providing false representations about terms and conditions of employment, housing, fees to labor brokers, food and transportation, and other material aspects of the work arrangement when bringing workers to the United States.**

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Immigrant workers who are manipulated into migrating to the United States for work opportunities that do not materialize or lead to abuse and exploitation often suffer from significant distress including sub-minimum wages, decrepit housing conditions, and other workplace violations.

Victims who internalize the responsibility for falling prey to fraud blame themselves for their own ambition and their failure to resist or recognize lies, fraud, and manipulation by an employer. Victims of fraud in foreign labor contracting may develop a belief that their own instincts cannot be trusted anymore and that their decision-making is irreparably flawed, leading to further destructive decisions and behaviors. Victims of fraud in foreign labor contracting typically suffer from devastation to their identity, sense of self-efficacy, and sense of self-worth.

### **Trafficking, Involuntary Servitude, and Peonage**

The Trafficking Victims Protection Act of 2000 (TVPA) provides a comprehensive framework to address serious forms of trafficking, including recruitment, harboring, transportation, provision, or obtaining a person for labor or services.

Even when facts surrounding trafficking victimization do not include the fraud, force, or coercion required of “severe forms of trafficking” under the TVPA, a trafficking victim can still make a claim based on a state definition of trafficking.

Trafficked workers are subject to isolation, indoctrination, physical impairment and exhaustion which increase vulnerability to further exploitation. Loss of identity, sense of self, and treatment as a commodity lead victims to view themselves as dispensable property, contributing to depression, feelings of hopelessness, helplessness, and loss of will. Victims may suffer from a deeply altered frame of reference for understanding the world, lose a sense of themselves as people, and lack the ability to trust others, leaving them physically, emotionally, and spiritually shattered.



In addition to intense fear and anxiety about personal bodily integrity, victims also suffer from psychological disturbances that can rise to the level of post-traumatic stress, as well as increased expectations of continued abuse, fears that violence will increase in lethality, a perceived lack of safety and security, and a view of interpersonal relationships as dangerous. These cognitive and emotional changes may cause severe mental distress and impairment in a victim's daily social, working life and personal adjustment

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### **Sex Crimes**

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Undocumented immigrants, immigrant workers without authorization to work, and guest workers are particularly vulnerable as victims of sex crimes in the workplace by employers, supervisors, co-workers, and clients. Uvisa qualifying activities include abusive sexual contact, rape, and sexual assault.

Sexual abuse of one worker can create a ripple effect to the rest of the workforce, and can be combined with favoritism, further confusing the victim psychologically and also his or her coworkers. A sexualized environment in the workplace is psychologically damaging even when not one worker was specifically sexually abused or exploited because it creates the conditions in which a person habituates to having their boundaries violated and insidiously chip away the will to resist other abuses.

High levels of work-related stress lead to burnout, which can be exacerbated by negative working conditions, pressure to perform, task repetition, lack of opportunities to advance at work, and an inability to enjoy free time in a normal manner.

Individuals cope with intense workplace stress differently depending on their appraisal of the source of the stress. Victims who perceive the manager or organization as the source of stress cope better than those who perceive themselves as deserving of the stress.

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## CONCLUSION

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**This article has described how criminal activities committed in the workplace may cause substantial harm to immigrant worker victims and how the substantial abuse standard for U visa qualifying criminal activities must consider the unique dynamics of an employer's actions on immigrant worker victims.**

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# POST-TRAUMATIC STRESS (PTSD)

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**PTSD is a mental health condition that can develop after a person has experienced or witnessed a traumatic event such as violence, sexual abuse, a natural disaster, or combat.**

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Symptoms of PTSD may include: anxiety, depression, intrusive thoughts or memories of the traumatic event, nightmares, flashbacks, avoidance of reminders of the event, negative changes in mood or cognition, and increased arousal or reactivity (e.g., exaggerated startle response and hypervigilance).

**Immigrants can be particularly vulnerable to developing PTSD due to certain factors related to their experiences before, during, and after migration.**

**Pre-migration trauma:** Many immigrants have experienced traumatic events such as violence, war, threats or persecution in their home country, which can increase their risk for developing PTSD.

**Migration-related stressors:** The process of migration itself can be stressful and traumatic, including experiences such as separation from loved ones, exposure to dangerous conditions during travel, and challenges with adapting to a new culture and language.



**Discrimination and marginalization:** Immigrants may face discrimination, prejudice, and marginalization in their new communities which can contribute to feelings of isolation, helplessness, and insecurity.

**Uncertainty about legal status:** Immigrants who are undocumented or have uncertain legal status may live with constant fear of deportation and may have extensive legal and filing fees which can exacerbate symptoms of anxiety and PTSD.

**Limited access to mental health care:** Immigrants may face barriers to accessing mental health care including language barriers, cultural differences, and lack of health insurance coverage.

**Overall, immigrants face unique challenges and stressors that can increase their vulnerability to developing PTSD.**



**Psychotherapy** is an effective treatment for individuals experiencing PTSD. There are several types of psychotherapy that have been found to be helpful which include: Cognitive Behavioral Therapy (CBT), Eye Movement Desensitization and Reprocessing (EMDR), and Prolonged Exposure Therapy (PE).

Psychotherapy can help people experiencing PTSD by helping them process their traumatic memories in a safe and controlled environment. This can help reduce the intensity and frequency of intrusive thoughts and flashbacks. Psychotherapy can also help patients develop coping skills to manage their symptoms, such as relaxation techniques and mindfulness practices. It can also help patients identify and challenge negative thoughts and beliefs related to their trauma.

**Psychotherapy provides a safe and supportive environment where patients can talk about their experiences and feelings without fear of judgment or stigma.**

Other forms of psychotherapy such as **group therapy**, can provide patients with a sense of community and support from others who have experienced similar traumas.

**Overall, psychotherapy can help patients with PTSD better manage their symptoms, improve their quality of life, and regain a sense of control over their lives.**



# 05

## Additional Paths to Citizenship

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# EXTREME HARDSHIP AND FAMILY SEPARATION

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**"Extreme hardship" is a term used in U.S. immigration law to describe the severe and unusual hardship that a U.S. citizen or lawful permanent resident (LPR) would experience if a qualifying relative were to be denied admission to the United States or were to be removed from the United States.**

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The concept of extreme hardship is relevant in several areas of immigration law, including family-based immigration, waiver applications, and relief for victims of abuse.

In the context of family-based immigration, U.S. citizens or LPRs can petition for certain family members to come to the United States. If the qualifying relative is inadmissible due to past immigration violations, the U.S. citizen or LPR may file an I-601 waiver application to request a waiver of inadmissibility. In this case, the U.S. citizen or LPR must prove that the qualifying relative's denial of admission would result in extreme hardship to the U.S. citizen or LPR.

The standard of "extreme hardship" is very high and it is not enough to show that the separation would be difficult or that the U.S. citizen or LPR would miss the qualifying relative. The hardship must be more than the normal emotional, psychological or financial difficulties that come with family separation. The hardship must be unusual and beyond what would be expected from the normal family separation. Factors that are considered in determining extreme hardship include: health, education, family ties, country conditions, financial considerations and other factors.

When determining what constitutes "extreme hardship", USCIS will take into account several factors, including but not limited to:

**Health:** The denial of admission or removal of a qualifying relative may result in a significant impact on the physical or mental health of the U.S. citizen or LPR. This may include serious medical or psychological conditions, chronic illnesses, or the lack of medical facilities or treatment options in the country of origin.

**Education:** The denial of admission or removal of a qualifying relative may result in a significant impact on the education of U.S. citizen or LPR children or the U.S. citizen or LPR themselves. This may include the inability to continue current education, the lack of educational opportunities in the country of origin or the financial burden of education in the country of origin.

**Family Ties:** The denial of admission or removal of a qualifying relative may result in a significant impact on the U.S. citizen or LPR's relationship with their family members such as the loss of emotional support, care, and financial assistance.

**Country Conditions:** The denial of admission or removal of a qualifying relative may result in a significant impact on the U.S. citizen or LPR's safety or well-being in the country of origin due to factors such as political instability, violence, persecution, or lack of economic opportunities.

**Financial Considerations:** The denial of admission or removal of a qualifying relative may result in a significant financial impact on the U.S. citizen or LPR, including loss of income, the inability to pay for basic necessities or the inability to maintain their current standard of living.





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# FORM I-601, APPLICATION FOR WAIVER OF GROUNDS OF INADMISSIBILITY

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**An I-601 Waiver is a form that can be filed by a person who is inadmissible to the United States due to certain immigration violations such as overstaying a visa, and is seeking a waiver of inadmissibility in order to be able to enter or return to the United States.**

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This waiver is filed with the U.S. Citizenship and Immigration Services (USCIS) and if granted, allows the person to apply for a visa or other form of admission to the United States. The I-601 Waiver is also known as the "Application for Waiver of Grounds of Inadmissibility".

**There are several requirements that must be met in order to be eligible to apply for an I-601 Waiver:**

The person must be inadmissible to the United States due to certain immigration violations such as overstaying a visa or entering the country illegally.

The person must have a **qualifying relative**, such as a U.S. citizen or legal permanent resident spouse, parent, or child, who would experience **extreme hardship** if the person is not allowed to enter or return to the United States.

The person must demonstrate that the denial of the waiver would result in **extreme hardship** to the **qualifying relative**.

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# DEFERRED ACTION FOR CHILDHOOD ARRIVALS (DACA) OR "DREAMERS"

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**DACA** stands for **Deferred Action for Childhood Arrivals**, which is a USA immigration policy that was introduced by President Barack Obama in 2012. The policy provides temporary protection from deportation and work authorization to eligible undocumented immigrants who were brought to the United States as children.

To be eligible for DACA, individuals must have arrived in the United States before their 16th birthday, and must have lived in the country continuously since June 15, 2007. They must also meet other requirements such as having no serious criminal record and being enrolled in school or having graduated or obtained a GED.

DACA recipients, often referred to as "Dreamers," are able to apply for a work permit and a Social Security number which allows them to legally work in the United States. However, DACA does not provide a path to permanent residency or citizenship.

In September 2017, the Trump administration announced that it would end the DACA program. This decision was later blocked by multiple federal court injunctions. As of now, the DACA program is still in effect but its future is uncertain and subject to ongoing legal challenges.



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# EMPLOYMENT AND INVESTMENT VISAS

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**H-1B visa:** This is a non-immigrant visa that allows US companies to employ foreign workers in specialty occupations that require expertise in a specialized field such as science, engineering, or technology. Most positions require a Master or Doctoral level specialization. The H-1B visa is typically valid for up to three years and can be extended up to six years.

**L-1 visa:** This is a non-immigrant visa that allows companies to transfer employees from their foreign offices to their US offices. The L-1 visa is typically valid for up to three years, with a possible extension of up to two years for a total of five years. There are two types of L-1 visas: L-1A for executives and managers, and L-1B for employees with specialized knowledge.

**E visa:** This is a non-immigrant visa for investors and traders from countries that have treaties of commerce and navigation with the US. The E visa allows individuals to enter and work in the US for a company in which they have invested or are actively involved in trade with the US. The amount of investment required for an E visa can vary widely depending on the type of business, industry, and location. The investor will need to provide documentation and evidence to demonstrate that the investment is substantial. The E visa is typically valid for up to two years with possible extensions.

**O visa:** This is a non-immigrant visa for individuals with extraordinary ability in the sciences, arts, education, business, or athletics. The O visa is typically valid for up to three years with possible extensions.

**TN visa:** This is a non-immigrant visa for Canadian and Mexican citizens who are employed in certain professions covered by the North American Free Trade Agreement (NAFTA). The TN visa is typically valid for up to three years, with possible extensions.

These are just a few examples of employment visas available in the US. Each visa category has its own specific requirements, limitations, and application process. It's important to consult with an immigration attorney to determine which visa someone may qualify for.





# 06

## Human & US Rights

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# INTERNATIONAL BILL OF HUMAN RIGHTS

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**International Human Rights are a set of fundamental rights and freedoms that are recognized and protected by International Law. These rights are universal, meaning that they apply to every person, regardless of their race, gender, nationality, religion, or any other status.**

The most important international human rights are:

**The right to life, liberty, and security of person**

**The right to freedom from torture, cruel, inhumane, or degrading treatment or punishment**

**The right to freedom of thought, conscience, and religion**

**The right to freedom of expression and information**

**The right to peaceful assembly and association**

**The right to participate in government and to vote and be elected in free and fair elections**

**The right to work, to a fair wage, and to join a trade union**

**The right to education and to access to information**

**The right to health and to adequate housing, food, and water**

**The right to freedom from discrimination on any grounds, such as race, gender, nationality, religion, or sexual orientation.**

These international human rights are recognized by a range of international treaties, agreements and declarations including the **Universal Declaration of Human Rights (UDHR)**, the **International Covenant on Civil and Political Rights (ICCPR)**, and the **International Covenant on Economic, Social, and Cultural Rights (ICESCR)**. These documents provide the framework for the promotion and protection of human rights around the world.



## **The Universal Declaration of Human Rights (UDHR)**

Human rights are rights we have simply because we exist as human beings - they are not granted by any state. These universal rights are inherent to us all, regardless of nationality, sex, national or ethnic origin, color, religion, language, or any other status. They range from the most fundamental - the right to life - to those that make life worth living such as the rights to food, education, work, health, and liberty.

The Universal Declaration of Human Rights (UDHR), adopted by the United Nations' (UN) General Assembly in 1948 was the first legal document to set out the fundamental human rights to be universally protected. The UDHR which turned 74 in 2020, continues to be the foundation of all international human rights law. Its 30 articles provide the principles and building blocks of current and future human rights conventions, treaties and other legal instruments.

The UDHR, together with the 2 covenants - the **International Covenant for Civil and Political Rights**, and the **International Covenant for Economic, Social and Cultural Rights** - make up the International Bill of Rights.

**Human rights apply to all individuals, regardless of their nationality or immigration status. As such, immigrants are entitled to the same human rights as any other person.** These include:

**Right to life, liberty, and security of person:** Immigrants are entitled to the same protections as everyone else from arbitrary detention, torture, and other forms of cruel or inhumane treatment.

**Right to freedom of movement:** Immigrants have the right to move freely within a country and to leave and return to that country.

**Right to seek asylum:** Immigrants who have fled their country due to persecution or fear of persecution have the right to seek asylum in another country.

**Right to work:** Immigrants have the right to work and to be paid a fair wage for their labor.

**Right to education:** Immigrant children have the right to education, regardless of their immigration status.

**Right to healthcare:** Immigrants have the right to access healthcare services including preventive care and treatment for illnesses and injuries.

**Right to family life:** Immigrants have the right to maintain family ties and relationships including the right to reunite with family members who live in other countries.

**Right to due process:** Immigrants have the right to a fair and impartial hearing before a competent tribunal or court and the right to legal representation.

It's important to note that while these rights are universal, the way they are implemented and enforced can vary from country to country, and some countries may not fully protect the human rights of immigrants.

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## **The International Covenant on Civil and Political Rights (ICCPR)**

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**The International Covenant on Civil and Political Rights (ICCPR) is a treaty adopted by the United Nations General Assembly in 1966. It is one of the two principal human rights treaties, along with the International Covenant on Economic, Social and Cultural Rights (ICESCR), that together make up the International Bill of Human Rights.**

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The ICCPR is a legally binding agreement that sets out a range of civil and political rights, including the right to life, freedom of religion, freedom of expression, and the right to a fair trial. The Covenant also includes provisions protecting individuals against torture, arbitrary arrest or detention, and discrimination on the basis of race, gender, or other status.

The ICCPR requires signatory countries to take steps to ensure that these rights are protected and respected, and to provide individuals with effective remedies when their rights are violated. The Covenant also establishes a committee of independent experts known as the Human Rights Committee, to monitor its implementation and to review reports submitted by signatory countries. As of 2021, 173 countries have ratified the ICCPR, making it one of the most widely accepted human rights treaties in the world.

## **The International Covenant for Economic, Social and Cultural Rights**

### **Rights**

The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a treaty adopted by the United Nations General Assembly in 1966. It is one of the two principal human rights treaties, along with the International Covenant on Civil and Political Rights (ICCPR), that together make up the International Bill of Human Rights.

The ICESCR is a legally binding agreement that sets out a range of economic, social, and cultural rights, including the right to work, the right to education, the right to health, the right to social security, and the right to an adequate standard of living. The Covenant also includes provisions protecting the rights of women, children, and people with disabilities.



The ICESCR requires signatory countries to take steps to ensure that these rights are protected and respected, and to provide individuals with effective remedies when their rights are violated. The Covenant also establishes a committee of independent experts, known as the Committee on Economic, Social and Cultural Rights, to monitor its implementation and to review reports submitted by signatory countries. As of 2021, 171 countries have ratified the ICESCR, making it one of the most widely accepted human rights treaties in the world.

Individuals or groups cannot submit complaints directly to the Committee on Economic, Social and Cultural Rights. However, the Committee can receive information from a variety of sources, including Non-Governmental Organizations (NGO)s, national human rights institutions, and other UN bodies.



If an individual or group believes that their economic, social, or cultural rights have been violated by a state party to the ICESCR, they can raise their concerns with the relevant national authorities and seek redress through national legal and administrative procedures. They can also bring the issue to the attention of non-governmental organizations (NGOs) or other human rights organizations that can assist them in filing a complaint with the national authorities.

In some cases, NGOs can submit a complaint on behalf of an individual or group to the UN Special Procedures mechanisms including the Special Rapporteur on the right to food, the Special Rapporteur on the right to education, and the Special Rapporteur on the right to health, among others. These mechanisms can investigate alleged violations of economic, social, and cultural rights and make recommendations to the state party to take appropriate measures to address the situation.

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# US BILL OF RIGHTS

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**The United States Bill of Rights is the first ten amendments to the United States Constitution which was ratified in 1789.**

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The Bill of Rights outlines a number of important civil liberties and protections, including:

**The First Amendment:** Protects freedom of religion, freedom of speech, freedom of the press, and the right to peacefully assemble and petition the government.

**The Second Amendment:** Protects the right to bear arms.

**The Third Amendment:** Prohibits the government from forcing citizens to quarter (house) soldiers during peacetime without their consent.

**The Fourth Amendment:** Protects citizens from unreasonable searches and seizures by the government.

**The Fifth Amendment:** Protects citizens from being tried twice for the same crime, being forced to testify against themselves, and being deprived of life, liberty, or property without due process of law.

**The Sixth Amendment:** Guarantees the right to a speedy and public trial by an impartial jury, the right to be informed of the charges against oneself, and the right to have legal counsel.

**The Seventh Amendment:** Guarantees the right to a trial by jury in civil cases.

**The Eighth Amendment:** Prohibits excessive bail and fines as well as cruel and unusual punishment.

**The Ninth Amendment:** States that the enumeration of certain rights in the Constitution shall not be construed to deny or disparage other rights retained by the people.

**The Tenth Amendment:** Reserves powers not delegated to the federal government by the Constitution, nor prohibited by it to the states, to the states or to the people.

Taken together, these amendments form the core of individual liberties and protections that are afforded to citizens of the United States.

If someone believes that their human rights have been violated in the United States, there are several steps they can take to seek redress:

**Report the incident to relevant authorities:** The first step is to report the incident to the relevant authorities, such as the police or other law enforcement agencies. If the violation involves discrimination or harassment in the workplace, it can be reported to the Equal Employment Opportunity Commission (EEOC). If the violation involves a violation of the right to vote, it can be reported to the Department of Justice.

**Seek legal assistance:** It is important to seek legal assistance from a qualified lawyer who specializes in human rights law. Lawyers can provide legal advice on the available legal remedies and can represent the individual in legal proceedings.

**Contact human rights organizations:** There are several human rights organizations in the US that can provide assistance and support to individuals who have experienced human rights violations. These organizations can also provide guidance on how to file a complaint with the appropriate authorities.



**File a complaint with the United Nations:** If the individual believes that their human rights have not been adequately addressed by domestic authorities, they can file a complaint with the appropriate UN human rights body. This could include the Human Rights Committee or the Committee on the Elimination of Racial Discrimination, among others.

The steps to seek redress for human rights violations may vary depending on the type of violation and the circumstances of the case. It is recommended that individuals seek advice and support from relevant organizations and legal professionals.



# THE CRIME VICTIMS COMPENSATION ACT (CVCA)

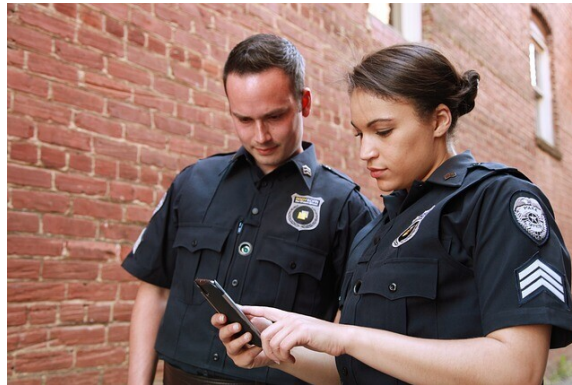


**The Crime Victims Compensation Act (CVCA) is a federal law that provides financial assistance to victims of crime who have suffered physical or emotional harm as a result of the crime.**

The law is administered by the Office for Victims of Crime (OVC) within the U.S. Department of Justice. The Act provides reimbursement for expenses such as medical treatment, lost wages and funeral costs as well as counseling and other related expenses. The program is intended to help alleviate some of the financial burden that victims may face as a result of their victimization.

The CVCA also provides funding to states to develop and maintain their own crime victim compensation programs. Each state's program is unique but they all must meet certain federal guidelines in order to receive funding from the CVCA.

To be eligible for compensation under the Act, victims must report the crime to the appropriate law enforcement agency and cooperate with the investigation and prosecution of the crime. Additionally, the compensation is limited to losses that are not covered by insurance or other forms of compensation.



**The Crime Victims Compensation Act (CVCA) covers losses resulting from certain violent crimes such as: murder, assault, child abuse, domestic violence, sexual assault, robbery, stalking, human trafficking, terrorists acts, and others.**

It's important to contact the relevant state's crime victim compensation program for more information on the specific rules and regulations that apply as well as information on how to apply for compensation.

**The Illinois Crime Victims Compensation Program offers reimbursement up to \$45,000 (eff. 8/7/22) for expenses incurred by eligible victims as a result of a violent crime.**

## APPLICATION WINDOW

**Adult without a disability -Five years from the date of the crime or one year from criminal charge for the offense.**

**Minor- Three Years from turning 18**

**Adult with disability -Three Years from the removal of the disability**

More Information:

Illinois Crime Victim Compensation Online Application:

<https://ag.state.il.us/victims/cvonlineapplication.html>

Written Instructions (English):

[https://illinoisattorneygeneral.gov/victims/CV\\_Application2013.pdf](https://illinoisattorneygeneral.gov/victims/CV_Application2013.pdf)

Written Instructions (Spanish):

[https://illinoisattorneygeneral.gov/victims/CVCApplicationInstructions\\_spanish1222013.pdf](https://illinoisattorneygeneral.gov/victims/CVCApplicationInstructions_spanish1222013.pdf)

**If you or someone you love is having difficulty coping with the long-term effects of a violent crime, please call the toll-free Crime Victims Assistance Line for more information about compensation and other statewide victim services: 1-800-228-3368 (Voice) 1-877-398-1130 (TTY).**



# 07

## Participate in Social Justice

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# VAWA AND SOCIAL JUSTICE PROJECTS

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## Getting Involved

There are many social justice projects and organizations that focus on addressing the needs of immigrants who are victims of domestic and gender based violence and other crimes. Some potential projects or organizations to consider might include:



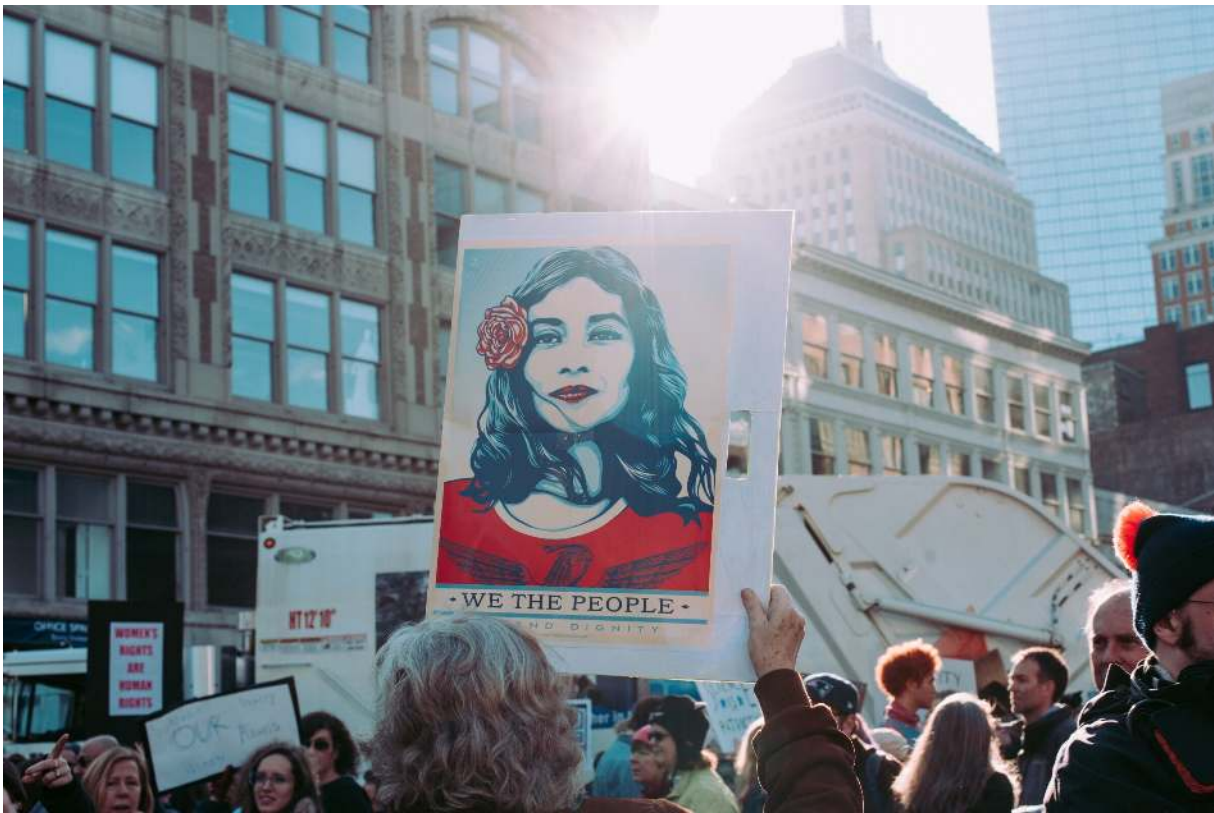
**1. Providing support and resources to immigrant victims of domestic violence and other crimes:** This could involve volunteering at a local domestic violence shelter or other organization that serves immigrant victims or raising awareness about the resources and support that are available to these individuals.

**2. Advocating for policies and legislation that support the rights of immigrant victims:** This could involve contacting your elected representatives to urge them to support policies that protect the rights of immigrant victims such as the Violence Against Women Act (VAWA) and its provisions for self-petitioning and U nonimmigrant visas.

**3. Educating the community about the unique challenges and needs of immigrant victims:** This could involve hosting workshops or presentations on the topic, or working with local schools and organizations to provide information and resources to immigrant victims and their families.

**4. Providing legal assistance to immigrant victims:** This could involve volunteering at a legal clinic or working with an organization that provides pro bono legal services to immigrant victims.

**5. Raising funds to support organizations that serve immigrant victims:** This could involve organizing a fundraiser or donating to organizations that provide support and resources to immigrant victims of domestic violence and other crimes.



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# SOCIAL JUSTICE PROJECTS & THE INTERNATIONAL RIGHTS OF IMMIGRANTS

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**Some additional social justice projects that focus on the international rights of immigrants all over the world include:**

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**1. Advocating for the rights of immigrants at the international**

**level:** This could involve working with organizations that advocate for the rights of immigrants globally or contacting your elected representatives to urge them to support policies that protect the rights of immigrants at the international level.

**2. Providing support and resources to immigrants and refugees in**

**other countries:** This could involve volunteering at a refugee camp or organization that serves immigrants and refugees or raising funds to support these organizations.

**3. Educating the community about the global refugee crisis:**

This could involve hosting workshops or presentations on the topic, or working with local schools and organizations to provide information and resources about the refugee crisis and how people can get involved.

**4. Providing legal assistance to immigrants and refugees:**

This could involve volunteering at a legal clinic or working with an organization that provides pro bono legal services to immigrants and refugees.

**5. Raising awareness about the challenges and discrimination faced by immigrants and refugees:** This could involve organizing a public campaign to highlight the experiences of immigrants and refugees or working with media outlets to share the stories of these individuals.

**6. Supporting organizations that provide assistance to immigrants and refugees:** This could involve donating to organizations that provide support and resources to immigrants and refugees or volunteering time and skills to these organizations.

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## Referrals and Resources

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# US IMMIGRATION LAWS, RIGHTS, AND INTERNATIONAL HUMAN RIGHTS REFERENCES

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**The United States Citizenship and Immigration Services (USCIS)**

website - this is the official US government website that provides

information on immigration and citizenship processes:

<https://www.uscis.gov/>

**The American Civil Liberties Union (ACLU)** - this is a non-profit

organization that advocates for the rights of immigrants and refugees:

<https://www.aclu.org/issues/immigrants-rights>

**The National Immigration Law Center (NILC)** - this is a non-profit

organization that provides legal assistance to low-income immigrants:

<https://www.nilc.org/>

**The International Organization for Migration (IOM)** - this is an intergovernmental organization that provides assistance to migrants and promotes safe and orderly migration: <https://www.iom.int/>

**The International Covenant on Civil and Political Rights (ICCPR)** - this is an international human rights treaty that outlines basic rights and freedoms that should be protected by all countries:

<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

**The Convention on the Rights of the Child (CRC)** - this is an international human rights treaty that outlines the rights of children and young people:

<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

**The Universal Declaration of Human Rights (UDHR)** - this is an international document that outlines basic human rights and freedoms:

<https://www.un.org/en/universal-declaration-human-rights/>



**The United Nations High Commissioner for Refugees (UNHCR) -**

this is an international organization that works to protect refugees and asylum seekers: <https://www.unhcr.org/en-us/>

**The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW) -** this

is an international treaty that outlines the rights of migrant workers and their families:

<https://www.ohchr.org/en/professionalinterest/pages/cmw.aspx>



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# REFERENCES FOR PUBLIC LEGAL AID IN THE US

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**Legal Services Corporation** - This is a non-profit organization that provides funding and support for legal aid programs throughout the US. Their website provides a directory of legal aid organizations by state: <https://www.lsc.gov/find-legal-aid>.

**American Bar Association** - This is a professional organization for lawyers that provides resources and support for legal aid programs. Their website provides information about pro bono opportunities and legal aid organizations: [https://www.americanbar.org/groups/legal\\_services/](https://www.americanbar.org/groups/legal_services/)

**National Legal Aid & Defender Association** - This is an organization that provides training, technical assistance, and support for legal aid and public defender programs. Their website provides information about legal aid programs and resources: <https://www.nlada.org/>

**LawHelp.org** - This is a website that provides information and resources for low-income individuals seeking legal help. The website provides a directory of legal aid organizations by state and legal information on a variety of topics: <https://www.lawhelp.org/>

**Pro Bono Net** - This is a non-profit organization that provides technology and support for legal aid programs. Their website provides information about pro bono opportunities and legal aid organizations: <https://www.probono.net/>

**State Bar Associations** - Many state bar associations have programs that provide legal assistance to low-income individuals. Check your state bar association's website for more information.

**Your local Legal Aid Society** - Many cities and counties have their own legal aid societies that provide free legal services to low-income individuals.

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# REFERENCES FOR SURVIVORS OF DOMESTIC AND GENDER ABUSE IN THE US

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**The National Domestic Violence Hotline** - This is a 24/7 hotline that provides crisis intervention, safety planning, and referrals to local resources for survivors of domestic violence. The hotline can be reached at 1-800-799-SAFE (7233) or by visiting their website:

<https://www.thehotline.org/>

**The National Network to End Domestic Violence** - This is a non-profit organization that provides resources and support for survivors of domestic violence, including legal advocacy, counseling, and financial assistance. Their website also provides a directory of local domestic violence organizations: <https://nnedv.org/>

**The National Coalition Against Domestic Violence** - This is a non-profit organization that advocates for policy and legislative changes to prevent domestic violence and support survivors. Their website provides information about domestic violence, safety planning, and resources for survivors: <https://ncadv.org/>

**The Domestic Violence Resource Center** - This is a non-profit organization that provides support and services for survivors of domestic violence in Oregon. Their website provides information about domestic violence, safety planning, legal advocacy, and counseling: <https://www.dvrc-or.org/>

**The National Resource Center on Domestic Violence** - This is a resource center that provides training, technical assistance, and resources for organizations and individuals working to end domestic violence. Their website provides information about best practices, research, and policy changes related to domestic violence: <https://www.nrcdv.org/>

**The Legal Aid Society** - This is a non-profit organization that provides legal representation and assistance to low-income individuals, including survivors of domestic violence. Their website provides information about legal resources and services for survivors: <https://www.legalaidnyc.org/>

**The Rape, Abuse & Incest National Network (RAINN)** - This is a non-profit organization that provides resources and support for survivors of sexual assault and domestic violence. Their website provides information about sexual assault, safety planning, and resources for survivors: <https://www.rainn.org/>



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# REFERENCES FOR MENTAL HEALTH RESOURCES AND INFORMATION IN THE US

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**National Alliance on Mental Illness (NAMI)** - This is a non-profit organization that provides education, support, and advocacy for individuals and families affected by mental illness. Their website provides information on mental health conditions, treatment options, and resources for support: <https://www.nami.org/>

**Substance Abuse and Mental Health Services Administration (SAMHSA)** - This is a government agency that provides information, resources, and services related to substance abuse and mental health. Their website provides information on mental health and substance use disorders, treatment options, and support resources: <https://www.samhsa.gov/>

**MentalHealth.gov** - This is a government website that provides information on mental health conditions, treatment options, and resources for support. The website also provides a directory of mental health treatment facilities by state: <https://www.mentalhealth.gov/>

**National Institute of Mental Health (NIMH)** - This is a government agency that conducts research on mental health conditions and provides information on mental health research and treatment options. Their website provides information on mental health conditions, treatment options, and research findings: <https://www.nimh.nih.gov/>

**Mental Health America (MHA)** - This is a non-profit organization that provides education, advocacy, and support for individuals and families affected by mental illness. Their website provides information on mental health conditions, treatment options, and resources for support: <https://www.mhanational.org/>



**American Psychiatric Association (APA)** - This is a professional organization for psychiatrists that provides information on mental health conditions and treatment options. Their website provides information on mental health conditions, treatment options, and resources for finding a mental health professional: <https://www.psychiatry.org/>

**Crisis Text Line** - This is a 24/7 crisis support service that provides free, confidential support for individuals in crisis. To access the service, text HOME to 741741.



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# MORE RESOURCES FOR UNDOCUMENTED IMMIGRANTS

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**Immigrants Rising, Transforming Lives Through Education:** The San Francisco-based organization has transformed individuals and fueled broader changes around the country. With their resources and support, undocumented people are able to get an education, pursue careers, and build a brighter future for themselves and their communities.

<https://immigrantsrising.org/>

**Undocu Professionals:** A growing national network of professionals that are creating an environment of mentorship with sustainability that allows themselves and for the next generations to have the possibility of choosing. Connect with other professionals to network, have career convos, co-create and build on a professional portfolio.

<https://www.undocuprofessionals.net/>

**Undocu Mental Health:** Mayra Veronica Barragan; a Speaker, Consultant, and Mental Health Professional provides information and resources on the mental health of undocumented immigrants.

Instagram: @UndocuMentalHealth

**UndocuBlack Network:** A movement of Black Immigrants organizing communities and building power through policy and advocacy.

Instagram: @UndocuBlack

**Informed Immigrant:** Informed Immigrant has become both a digital hub and offline network offering the most up-to-date and accessible information and guidance for the undocumented immigrant community. They have collected a list of more than 1,000 organizations offering on-the-ground legal support, healthcare services, and more to undocumented families.

<https://www.informedimmigrant.com/>

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## Conclusion

We hope that this guide has been helpful in providing you with information and resources to navigate the legal system as a new arrival and survivor of domestic and gender based violence. We understand that the process of seeking safety and legal status in the US can be really challenging. **We want to remind you that you are not alone.** There are many organizations and individuals who are dedicated to supporting new arrivals and survivors of domestic and gender based violence in the United States. We encourage you to seek out these resources as you move forward.

**Remember that you have legal rights regardless of your immigration status and that there are options available to you for obtaining legal status and protection from domestic and gender based violence. It is important to know that you have the power to make informed decisions about your own life and that you deserve to be treated with respect and dignity.**

If you or someone you know is experiencing domestic or gender based violence, we encourage you to reach out for help.

Thank you for reading "**A Path to Safety and Citizenship: A Guide for New United States Arrivals & Survivors of Gender Based Violence**". We wish you all the best as you move forward on your path to safety and healing.

**Silvia Avila, MA, LCPC**

<https://www.silviaavila.com/>





# SPECIAL THANKS IN COLLABORATION WITH

Truth & Reconciliation Conversations (TRC) is a nonprofit charity that promotes racial reconciliation and gender equality. TRC partners with diverse organizations to host the TRC Global Summit and offer year-round accredited courses to teach students how to identify and prevent domestic and gender based violence (GBV).

<https://trconversations.com/>



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