# Visas for Undocumented Victims of Domestic and Sexual Violence

Abusers often try to isolate victims to make them vulnerable and dependent on the abuser. Undocumented domestic and sexual violence abuse victims are in particular danger of this isolation. They may fear that leaving their abuser will end their hopes for receiving proper documentation, or that contacting the police will cause legal troubles. However, there are options for those victims to get legal permanent resident status under some circumstances. You should advise your client to try to get an attorney if she might be eligible for one of the following visas.

## Violence Against Women Act Self-Petition

When a U.S. citizen or lawful permanent resident (“LPR”) marries someone who does not have LPR status, he usually petitions to get his spouse citizenship or lawful permanent residency by filing an I-130. This will get the non-citizen spouse LPR status for the first two years of the marriage. However, when the citizen or LPR is abusive, he may try to use the promise of LPR status to threaten and control her. The I-360 Special Immigration form provides for spouses and children of abusive U.S. citizens or lawful permanent residents. If a victim is or was recently married to an abusive U.S. citizen or lawful permanent resident who never filed an I-130 for her, she may be eligible to petition on her own to get legal status.

**What does she have to show?**

* + - 1. She has to prove her own identity
      2. She has to prove that her abuser was a citizen or LPR
      3. She has to show that she married the abuser in good faith
      4. She has to prove that they lived together
      5. She has to prove that there was sexual or physical abuse
      6. She has to prove that she has good moral character

## Battered Spouse Waiver

Victims may be eligible for a VAWA Self-Petition if the abusive spouse never filed an I-130 to get the victim permanent legal residency. However, if the abusive spouse filed the I-130 and the marriage is less than two years old, a victim may have a difficult choice to make. She may not know whether to leave the abusive relationship or stay with her abuser in the hope that he will help her get a permanent green card when the two year period is finished. A victim in this situation may be eligible to petition for a Battered Spouse Waiver (I-751). This will allow her to file for a permanent green card at the end of the two years without the abusive spouse’s participation.

**What does she have to show?**

1. She has to prove that she married the abuser in good faith.
2. She has to prove that she or her child was subjected to battery or extreme cruelty by the abuser.

## U-Visa

Many undocumented immigrants fear that contacting the police about a crime will expose them to legal problems arising from their immigration status. However, there is a visa available for victims of violent crime who assist the police. If you counsel a victim who fears that she cannot go to the police when her abuser behaves violently toward her, this could be a way for her to get help from law enforcement without fear of jail or deportation because of her immigration status. However, you should help her find an immigration lawyer or organization to advise her

**What does she have to show?**

* + - 1. That she has suffered substantial physical or mental abuse as a victim of certain criminal activity
      2. That she possesses information concerning that criminal activity
      3. That she has been helpful, is being helpful, or is likely to be helpful to the police
      4. The criminal activity violated U.S. laws or occurred in the United States

## T-Visa

Victims of trafficking may also be afraid to contact the police for fear of arrest or deportation. Clients who have been brought to this country and forced to commit sexual acts or perform labor or services without their consent may be eligible for this visa.

**What does she have to show?**

1. That she was a victim of sex or labor/services trafficking
2. That she was physically present in the U.S. because of the trafficking
3. That she has cooperated with any reasonable request for assistance in the investigation

## Gender-Based Asylum Petitions

A federal law makes it possible for victims to qualify as refugees if they cannot return to the country in which they have nationality because of “race, religion, nationality, membership in a particular social group, or political opinion.” There are many ways in which a victim’s gender or the dynamics of abuse could create grounds for a visa under these requirements. Here are some specific examples of ways in which victims could qualify:

* If she might suffer female genital mutilation, honor crimes, or a forced marriage in the country of nationality
* If her actual or imputed political opinion is that she is a woman who believes that wives should be able to lead their lives without being dominated by their husbands
* Her religious beliefs differ from her husband’s religious beliefs concerning the proper role of women in society
* Her membership in a particular social group of women who challenge their husbands’ domination