

Exhibit C

**“Know Your Rights: Questions and Answers for Non-Citizen Survivors of
Domestic Violence,” Information Pamphlet prepared
by the Tahirih Justice Center**



Know Your Rights:

Questions and Answers for Non-Citizen Survivors of Domestic Violence

For more information, contact:

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Through direct legal services and public policy advocacy, the Tahirih Justice Center works to protect immigrant women and girls seeking justice in the United States from gender-based violence.

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Questions and Answers continued:

How can I support myself and my children if I leave my husband? The father of your children is required to support them, even if you are living apart, even if you were never married to him, and without regard to your immigration status. If you are married, you also may qualify for spousal support or alimony. Contact a family lawyer or domestic violence advocate to find out how to obtain child support in your state. You also may qualify for spousal support or alimony. Contact a family lawyer or domestic violence advocate to find out how to obtain child support in your state. If you are a green card holder, you may use your "green card" to demonstrate your eligibility to work. Other immigrants must apply for work authorization. Contact an immigration attorney to find out whether you are eligible for work authorization. It is very important that you do not use false papers to work or make false claims of United States citizenship.

I am a legal permanent resident. Am I eligible to receive welfare and Medicaid? Some green card holders are eligible for Food Stamps, but most legal permanent residents are not. Eligibility for Medicaid, Temporary Aid to Needy Families, and general assistance varies from state to state. Contact an immigration or domestic violence advocate in your area for help in determining your eligibility for these services.

I am a refugee. Am I eligible to receive welfare and Medicaid? During the first five years after arriving in the United States, refugees are eligible for Food Stamps, Temporary Aid to Needy Families, Medicaid, and other public benefit programs to the same extent and under the same conditions as U.S. citizens.

Most refugees who have been in the United States for five years or more will no longer be eligible for Food Stamps. Eligibility for other public benefits by refugees who have been in the United States for five years or more varied from state to state. Contact an immigration or domestic violence advocate in your area for help in determining your eligibility for these services.

I am undocumented. Am I eligible to receive welfare and Medicaid? If you have an immigration application pending or approved, you probably are eligible for some types of public benefits. If you are not eligible for public assistance, you are still eligible for emergency Medicaid. Remember that you are also eligible for assistance from community groups and from domestic violence shelters.

Are my U.S. citizen children eligible for public benefits and Medicaid? Yes. Even if you are undocumented, your U.S. citizen children are eligible for public benefits just like other citizen children. Remember that the welfare office does not need to know your immigration status in order to give benefits to your children. If you are undocumented, you do not have to reveal your immigration status to welfare officers when applying for benefits on behalf of your children, even if you are asked. Contact an immigration or domestic violence advocate in your area for help in accessing these services if your children are denied benefits because of your immigration status.

Will my husband/intimate partner be deported if I take action? If you seek the assistance of a shelter or an attorney, it is very unlikely to result in the deportation of your partner. If you contact the police and your partner is convicted of a crime, he may be deported, depending upon the seriousness of the crime and his own immigration status. Remember that keeping yourself and your children safe is the most important thing. It is your partner who has put himself at risk of deportation by his abusive actions.

Do I need to see an immigration attorney even if I cannot afford one? You should always consult with an immigration lawyer if you have questions about your status before going to the immigration office. Your conversation with the lawyer will be confidential, he or she cannot report you to immigration. Please remember to always seek guidance from licensed immigration attorneys. Immigration consultants ("notarios") are not licensed attorneys and are not bound by the same rules about confidentiality, so we recommend that you only get services from a licensed immigration attorney or an accredited immigration nonprofit.

Adapted primarily from the Family Violence Prevention Fund website, www.endabuse.org.

Questions and Answers:

What is domestic violence? "Domestic Violence" is violence that typically occurs at home between people who: (a) are currently, or have been, married; (b) are currently in, or have been in, a significant relationship; or (c) currently live, or have lived, together or are related by blood. Domestic violence often takes the form of physical injury, but the violence may also be in the form of: (a) threats, including threats to report you to "immigration," to have you deported, and to take your children; (b) isolation, including discouraging you from speaking to friends or family and preventing you from getting a job or learning English; (c) emotional mistreatment and verbal abuse, including calling you names that are hurtful or shameful to you and making you feel like the abuse is your fault; or that you are "crazy;" and, (d) forced sex or sexual relations. If you are experiencing domestic violence in your home, you are not alone. Domestic violence is usually hidden, but it is also very common. Domestic violence gets worse over time. It does not go away on its own. It is important to remember that you are not responsible for the violence, and help is available to you.

I am not safe in my own home. Should I leave my home? Yes! You and your children should leave your home if you are in danger. If you are planning to stay at a shelter, tell the shelter you will be bringing your children with you. Go to a safe place like a friend's house or to a women's shelter. Shelters are usually free and will have information about services in your community that can help you. It is safest to keep your location confidential.

My husband is abusive to me and my children. Should I call the police? Domestic violence is a crime. If you are in danger and cannot get out of the house, call 9-1-1. The police will escort you and your children to a safe place if you want to leave. The police may also arrest your abuser if they think a crime has been committed. If your abuser is arrested, he could be released after a short time. If you feel in danger, you should use the time to find a safe place to stay. If you have the chance it would be beneficial to ask the police to complete a report about the incident. Write down the incident report number so that you can get a copy of the report. Also ask for and write down the name and badge number of the officer making the report and of any other officers with whom you speak. The police's job is to protect you. If you are calling to report domestic violence, the police are generally not required to inform immigration. Remember that you have the right to protection regardless of your immigration status. Contact an immigration or domestic violence advocate if you have questions about your locality enforcing immigration law.

I am planning on leaving my home to escape domestic violence. What should I take with me when I leave? It will be helpful if you can bring certain important documents with you, but do not worry if you do not have time to collect them safely. Documents to bring with you include: Driver's license, Marriage license and/or certificate, Birth certificates for you and your children, Social security cards, visas, green cards or immigration papers, and passports for you and your children, Copies of your abuser's social security card, visa, green card or immigration papers, passport, and birth certificate, Public assistance documents, Banking information, including checks and credit cards, Paycheck stubs for you and your abuser, Medical and police reports; and, Photos of any injuries or property damage caused by your abuser. This list is not exhaustive. Also, you do not need everything on this list to get immigration relief. At no time should you endanger yourself or your children to obtain these documents.

I have heard of protection orders. What do they do? Can I get a protection order even if I am not a U.S. citizen? A protection order can prohibit your abuser from calling, contacting, or assaulting you, your children, or other family members. In addition, you may obtain temporary custody of the children, temporary child support, and the right for your abuser to be removed from your home. You do not need to be a U.S. citizen or Lawful Permanent Resident (i.e. green card holder) to get a protection order. It may be helpful to have a lawyer assist you in obtaining a protection order, but lawyers are not required.

I am an undocumented non-citizen and am abused by my husband. Am I eligible to apply for relief under the Violence Against Women Act (VAWA)? The abused spouse of a U.S. citizen or green card holder, an abused child or step-child of a U.S. citizen or green card holder, the parent of a child abused by a U.S. citizen or green card holder, or the abused parent of a U.S. citizen or green card holder are all potentially eligible under VAWA.

My children and I are undocumented. Can we get work authorization and green cards? The Violence Against Women Act permits you to apply for a green card and work authorization without any help from your abusive spouse. The process is confidential. Your spouse will not be allowed to influence your application in any way.

I am trapped by abusers, unable to move around and forced to work without compensation. Am I eligible for immigration relief? If you were trafficked into the United States and forced to work for little or no compensation or to engage in sex work, you may be eligible for a T visa. You must be willing to cooperate with law enforcement to investigate the crimes committed against you. Try to ask a friend, spiritual advisor, or law enforcement officer for assistance.

I cannot return to my home country because I fear my husband will abuse me. Can I get immigration relief in the United States? If you fear returning to your country of origin because you face severe abuse from a husband or family member upon your return, you may be eligible for asylum. Please contact a licensed immigration attorney or an accredited immigration nonprofit immediately to determine if you are eligible.

I am an undocumented non-citizen and a victim of domestic violence, but I am not married to my abuser. Am I eligible for immigration relief? If your abuser was investigated or prosecuted for the crime of domestic violence and you cooperated in the investigation and/or prosecution, you may be eligible for immigration relief. It is important to speak with a licensed immigration attorney or an accredited immigration nonprofit to determine whether you are eligible for a U visa.

My husband is threatening to take my children away if I leave him. What can I do? If your abuser threatens to take your children, you can apply for a custody order to prohibit your partner from taking the children out of the country or out of the state where you live. Contact a family lawyer or a domestic violence advocate to assist you in filing for a custody order. Once you have obtained a custody order, you should take the following steps: (1) If your children are U.S. citizens, send a copy of the custody order to the embassy of your partner's home country and to the U.S. Department of State to prevent the issuance of passports and/or visas for the children. (2) Give a copy of the order to your children's schools or daycare facility, and tell them not to allow the children to leave with anyone other than yourself or someone else you designate. (3) Make sure you have recent photos, passports and birth certificates for the children. Keep a list of addresses and phone numbers of your partner's friends and relatives in his home country.

Exhibit D

"Overview of Services Provided by the Tahirih Justice Center"



TAHIRIH JUSTICE CENTER.

Promoting Justice for Women & Girls Worldwide

OVERVIEW OF SERVICES PROVIDED BY THE TAHIRIH JUSTICE CENTER

Tahirih provides free legal representation to immigrant women and girls fleeing gender-based violence. Our legal representation primarily encompasses four areas of immigration law: **gender-based asylum**; provisions under the **Violence Against Women Act (VAWA petitions)**; and provisions under the **Victims of Violence and Trafficking Protection Act (U Visa, T Visa)**. Taking a holistic approach to serving its clients, Tahirih also offers them family law assistance and a range of social and medical referrals.

When a woman in need contacts Tahirih, we initially speak to her on the phone to determine if she may be eligible for our services. If we are unable to directly provide our services, we will make the appropriate referrals. If she appears to be eligible for our services, we invite her to the office for an in-depth interview. After the interview, her case is reviewed by attorneys on staff to decide whether Tahirih can represent her.

Below are snapshots of the types of cases that we can help with, along with examples of documents that help us establish her case for protection under US law.

1. **VAWA: Victims of Domestic Violence**

The Violence Against Women Act is a federal law that allows foreign nationals to escape abusive relationships with US citizens or Legal Permanent Residents (LPR) on whom their own legal status depends without fear of automatic deportation. VAWA enables spouses, children, or parents who were victims of abuse at the hands of a US citizen or LPR husband, father, or child to petition for legal status independent of that abuser.

Any VAWA application must show:

- 1) Applicant is the spouse, child, or parent of the abuser (marriage or divorce certificate, birth certificate);
- 2) Abuser is a US citizen or LPR; for parents, the abuser must be a US citizen (copy of abuser's passport or green card or other identification);
- 3) Applicant was subject to emotional, physical, or sexual abuse (medical reports, photos, protective orders, testimony of witnesses, police reports, court or legal documents);
- 4) Applicant currently resides in the United States or suffered the abuse in the United States (passport, bills, leases, other proof of residence or US identification);
- 5) Applicant has/had some period of joint residence with the abuser (shared utility bills, bank accounts, leases, tax returns);
- 6) Good moral character of the applicant (copy of state criminal record check, letter from volunteer organization); and
- 7) Applicant had a good-faith marriage to the abuser; not required for child or parent applicants (photos, letters between spouses, birth certificates of children).

With an approved application, the woman or child can apply for legal permanent resident status and, ultimately, for US citizenship.

2. **U Visa: Victims of Serious Crimes**

The "U visa" or "U nonimmigrant status" permits certain non-citizen crime victims who have suffered substantial mental or physical abuse as a result of the crime to remain in the United States as long as they cooperate with the police in the investigation and prosecution of the crime. To be eligible, the applicant must be a crime victim or the victim's immediate relative, such as their spouse or child.

Any application for U visa status must show:

- 1) Applicant suffered substantial physical or mental abuse as a result of having been the victim of a listed crime or attempt to commit a listed crime: Rape, Incest, Torture, Murder, Perjury, Peonage, Extortion, Kidnapping,

OVERVIEW OF SERVICES PROVIDED BY THE TAHIRIH JUSTICE CENTER

Prostitution, Abduction, Blackmail, Trafficking, Manslaughter, Slave Trade, Sexual Assault, Felonious Assault, Witness Tampering, Sexual Exploitation, Domestic Violence, False Imprisonment, Being Held Hostage, Involuntary Servitude, Obstruction of Justice, Abusive Sexual Contact, Female Genital Mutilation, Unlawful Criminal Restraint (crime summary or police report to establish crime, photos, proof of counseling, medical records);

- 2) Applicant has information concerning the criminal activity and she has been, is being, or is likely to be helpful to a local, state, or federal law enforcement official investigating or prosecuting the crime (signed certification from officer or official);
- 3) She has "good moral character" (state criminal record check, letter from volunteer organization).

Approved U visa petitioners will be granted temporary legal status and work authorization for four years. After three years, persons granted U visas may be eligible to apply for lawful permanent resident status.

3. T Visa: Victims of Human Trafficking

The T visa is designed specifically for those who have been subjected to severe forms of sex or labor trafficking. To be eligible, the applicant must be a trafficking victim.

Any application for a T visa must show:

- 1) Applicant is a victim of severe trafficking in persons (police report, witness accounts, medical records, photos);
- 2) Applicant is physically present in the United States or at a US port of entry on account of such trafficking (witness accounts, travel documentation, or immigration paperwork);
- 3) Applicant has cooperated with an investigation by law enforcement, unless the applicant is less than 18 years old (signed certification from officer or official); and
- 4) Applicant would suffer extreme hardship involving unusual and severe harm if removed from the United States (counseling records, letters from family/friends, medical records).

If approved, T visa holders are eligible to work and receive public benefits to help them heal after their trauma. Three years after approval, a T visa holder may be eligible to apply for lawful permanent resident status.

4. Gender-Based Asylum: Victims of Gender-based Violence in Home Country

Women who have escaped gender-based violence in their home countries may be eligible for asylum in the United States, which is a kind of "safe haven" that is provided under US and international law for those fleeing persecution.

Any application for asylum must show the applicant is:

- (1) outside of her country of origin and (2) unable or unwilling to avail herself of the protection of her home country because of (3) past persecution or a well-founded fear of future persecution (4) on account of race, religion, nationality, membership in a particular social group, or political opinion. (hospital records, arrest warrants, statements from family and friends, travel documentation, counseling records)

Tahirih limits its asylum representation only to women and girls who fled persecution based on gender. Examples of gender-based persecution can include: female genital cutting (FGC), forced marriage, or severe domestic violence. Tahirih also represents women who fled other forms of persecution provided there is a strong gender element (e.g., rape used as a form of torture).

If their asylum application is approved, asylees are eligible to work and receive public benefits to help them heal from their trauma. In addition, one year after the grant of asylum, they will be eligible to apply for legal permanent resident status.

If you think that someone may be eligible for our services, contact us:

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Exhibit E

**Proposed IMBRA Information Pamphlet
Prepared by Legal Momentum and the Tahirih Justice Center**

Thinking about Getting Married? Facts about Immigrating on a Marriage-Based Visa to the United States

What is the purpose of this pamphlet?

The International Marriage Broker Regulation Act (IMBRA) was designed to provide foreign fiancé(e)s and spouses immigrating to the United States with early access to information about their legal rights and the criminal or domestic violence histories of their US citizen fiancé(e)s or spouses. One of IMBRA's main goals was to ensure that immigrating fiancé(e)s and spouses would be empowered with reliable, accurate information, provided directly by the government, to enable them to understand the processes through which they may obtain or retain legal immigration status, and to know how to access help if their relationship should turn abusive (including the special protections that exist for immigrant survivors of violence under US law). The Pamphlet is the mechanism designed by IMBRA to provide this potentially life-saving knowledge.

IMBRA intended that immigrating foreign fiancé(e)s and spouses be given information that could help them protect themselves against violence from the partners who had sponsored their visas or others who might seek to abuse or exploit them. IMBRA recognized that such information could be a powerful self-help tool for immigrating foreign fiancé(e)s and spouses who are often unfamiliar with US laws and unsupported by family and friends to whom they can turn for help to escape a violent situation. IMBRA also recognized that such information could be a critical tool to "level the playing field" between victims and the abusers/perpetrators, who often provide misinformation, or withhold information, as a means to solidify their control and ensure that their victims will not report them or seek help.

How does the marriage-based immigration process work?

The marriage-based immigration process involves several steps to obtain legal immigration status in the United States, and, over time, to be eligible for citizenship. These steps depend on the type of marriage-based visa you travel on to the United States, as well as other factors. The information below will give you an overview of some of these types of visas, as well as provide you with other important information about your legal rights and resources available to you in the US.

What will my legal status be when I arrive in the United States?

[CONSIDER INSERTING VISUAL AIDS TO SUMMARIZE THESE PROCESSES, SUCH AS FLOWCHARTS OR TIMELINES. SEE GAO REPORT¹, PG 11, FOR EXAMPLE.]

ALSO CONSIDER INSERTING ENDNOTES TO PROVIDE THE OFFICIAL NAMES OF THE RELEVANT APPLICATION FORMS FOR THE READER'S REFERENCE.]

¹ See Government Accountability Office (GAO), *Immigration Benefits: Circumstances under Which Petitioners' Sex Offenses May Be Disclosed to Beneficiaries*. [GAO-06-735](#) (Washington, D.C.: June 14, 2006). s

If you are coming to the United States on a “fiancé(e)” visa (also called a K-1 visa) your legal status is temporary, and you must get married within 90 days after entering the United States to the US citizen who sponsored your visa. If you do not get married in 90 days, you must leave the United States. If you remain in the United States without marrying the US citizen who sponsored your visa, or marry someone else, you will violate the terms of your visa, have no legal status, and may be subject to deportation or other penalties.

If you are coming to the United States on a “spouse” visa (also called a K-3 visa) to join a US citizen spouse who sponsored you, your legal status is also temporary. You have been allowed to enter the United States temporarily while you wait for a family-based visa application (called I-130) to be approved that establishes that you have a relationship (marriage) to a US citizen that entitles you to apply for permanent legal status. Once that application has been approved, you will need to file a second application (called I-485) to actually obtain permanent legal status in the United States.

If you are already in the United States and married and your spouse is a United States Citizen or Lawful Permanent Resident, your spouse needs to file a family-based visa application (called I-130) to be approved that establishes that you have a relationship (marriage) to a US citizen that entitles you to apply for permanent legal status. Once that application has been approved, you will need to file a second application (called I-485) to actually obtain permanent legal status in the United States.

If you are coming to the United States on another marriage-based immigration status, please refer to the information you have been given from the US consulate or that is available on this website: <http://www.uscis.gov>, or consult with an immigration attorney. Other visas for immigrating foreign fiancé(e)s and spouses have their own special requirements, such as being dependant on the sponsor for legal immigration status, and limitations, such as not having the right to work.

If you have children who were born outside of the United States, the applications that your sponsoring spouse or fiancé(e) files for you can include your children.

If I am married to a US citizen who filed immigration papers on my behalf, what is my immigration status?

If your spouse has filed a family-based visa application for you and you have filed an application for lawful permanent residency, the following procedures will apply:

If you have been married less than 2 years on the date of your interview with the Department of Homeland Security, if your application is approved, you will initially receive only “conditional” permanent resident status. The permanent resident status is “conditional” because you must prove that the marriage is “good faith” and valid, and that you did not get married only to obtain permanent resident status. The US government looks at the length of your marriage as one way to see this proof. To remove this “condition” on your residence in the United States, you and your spouse must apply together during the 90 days **before** your second anniversary as a conditional resident. Once you have removed the condition, you have permanent residence that is no longer dependent on your US citizen spouse.

If you have been married for more than 2 years on the date of your interview with the Department of Homeland Security, if your application is approved, you will receive full lawful permanent residence. You will no longer be dependent on your US citizen spouse for immigration status.

Are there any circumstances in which I don't have to file a petition to remove the "condition" on permanent resident status?

There are three types of cases in which the law permits conditional residents the possibility of requesting a waiver of the requirement that you and your spouse jointly file the request to remove conditions. All three waivers require you to prove that your marriage was entered into in "good faith" and not for fraudulent immigration purposes.

- The removal of a conditional resident from the United States would result in extreme hardship; OR
- The good faith marriage was legally terminated, other than by death, and the applicant was not at fault for failing to file a timely application to lift the condition; OR
- During the course of the good faith marriage, the U.S citizen or lawful permanent resident spouse subjected the conditional resident to battering or extreme cruelty. This waiver is known as the "Battered Spouse Waiver" (Form I-751)²

What does it mean for a marriage to be "good faith" and valid?

A marriage is a good faith marriage when you and your spouse married because you planned a life together as husband and wife. Evidence of a good faith marriage includes: children, sharing a home together, shared finances, and photos of family events. If you married only so that you would obtain legal immigration status in the United States, this is a crime called "marriage fraud." Conviction for marriage fraud can involve serious penalties, including imprisonment for up to five (5) years and fines up to \$250,000 (US).

What if my sponsoring spouse or fiancé(e) fails to complete the steps required to give me legal immigration status?

In some cases, the sponsoring spouse or fiancé(e) will fail to complete all the steps required to give you legal immigration status. This can be for a number of reasons, but one potential reason is due to domestic violence (abuse). There are a number of ways in which a partner who is abusing you may try to use the immigration process to control or intimidate you:

- Not marrying you;
- Not filing or withdrawing applications to give you or your child legal immigration status;
- Not giving you access to identification or other documents that you would need to apply for legal immigration status, or hiding from you notices that you receive from immigration authorities;
- Threatening to call immigration authorities to get you deported if you report abuse, seek custody of your children, or leave;

² 8 C.F.R. §216.5(e)(3)(i).

- Threatening to raise your lack of legal immigration status to gain advantage in a dispute over the custody of your children.

Recognizing that immigrating fiancé(e)s and spouses may experience this kind of abuse and intimidation, and wanting to ensure that victims of domestic violence, sexual assault, child abuse and other crimes do not remain in dangerous relationships rather than seek help, or remain silent rather than come forward to report crimes, this pamphlet describes below other rights that such victims have under US immigration law.

Rights of Immigrant Victims of Domestic Violence, Sexual Assault, Child Abuse, Human Trafficking and other Crimes Under US Immigration Law

What Immigration Remedies are available to me if I become a victim of domestic violence, sexual assault, trafficking or another crime?

There are four ways immigrants who become victims of domestic violence, sexual assault, trafficking and some other crimes may apply for legal immigration status for themselves and their children. Victims can apply for this immigration relief confidentially. The government is not allowed to tell anyone including your abuser, crime perpetrator or your family members that you have applied for help. If you believe you might be eligible for one of the following forms of immigration relief call one of the resources listed at the end of this pamphlet and ask them to help you find an advocate and an attorney in your area with expertise working on cases of immigrant victims of violence against women.

- **Self Petitions under the Violence Against Women Act (VAWA):**

VAWA “self-petitioning” allows spouses and children who have been battered or subjected to extreme cruelty to apply for legal permanent residency without the help or knowledge of their abusive US citizen or lawful permanent resident spouse or parent. Parents of abusive over 21-year-old US citizen children can also qualify to self-petition.

- **Cancellation of Removal under the Violence Against Women Act (VAWA):**

VAWA cancellation of removal allows spouses and children abused by US citizen spouses and parents, who are told they will be deported, to ask an immigration judge to not deport them and give them permanent residency because of the abuse. In addition, if you are a parent of a child or step-child who is abused by a US citizen, then you are eligible as well. To receive VAWA cancellation, you must show you have been battered or subjected to extreme cruelty, that you have been in the US for longer than 3 years, and that your deportation you cause you extreme hardship.

- **Crime Victim U-visas:** The “U-visa” allows certain non-citizen crime victims who have suffered substantial mental or physical abuse as a result of criminal activity in the United States to remain in the United States if they are willing to cooperate in a criminal investigation or prosecution. At the end of three years U visa recipients who can prove humanitarian need, public interest or family unity can apply for lawful permanent residency.

- **T Visa: Victims of Human Trafficking:** The T visa was created for those who have been subjected to severe forms of sex or labor trafficking. This visa is available to individuals who are victims of severe forms of trafficking in persons and who are willing to assist in the investigation and prosecution of their traffickers. At the end of three years in T visa or continued presence status, T visa recipients can qualify to apply for lawful permanent residency.

What can I do if I am abused by a US citizen spouse who refuses to help me apply for legal immigration status, or threatens to withdraw support for my application?

If you have already gotten “conditional” permanent residence, you may be eligible for the battered spouse waiver discussed above.

If you have not yet gotten conditional permanent residence, you may be eligible for self-petitioning under VAWA.

What can I do if I am abused and I am married to a Lawful Permanent Resident?

Abused spouses of Lawful Permanent Residents are also eligible to “self-petition” under VAWA for legal status independent of their abusers, as described above.

What can I do if I am abused and put into removal (deportation) proceedings?

You may qualify for VAWA cancelation of removal or VAWA self-petitioning.

What can I do if I am abused and my spouse is neither a US citizen nor a Lawful Permanent Resident? Or what if I am not married to my abuser?

You may be eligible for a U-visa.

What if I am hurt by someone other than my fiancé(e) or spouse?

You may be eligible for a U-visa or T-visa.

What about my children?

Children can be included in a parent’s self-petition. A child who has been abused may also file his or her own self-petition. Also, a parent may file a self-petition on behalf of a child who has been abused.

What other ways does the US government try to prevent foreign fiancées and spouses, and their children, from being abused?

The International Marriage Broker Regulation Act of 2005 (IMBRA) is a law in the United States that changed the marriage-based immigration process to try to help foreign fiancé(e)s and spouses avoid or escape abuse. IMBRA required that you be given the information contained in this Pamphlet to tell you about laws and services that can help you in the United States if you are abused, and required that the Pamphlet be made widely available in many government offices and websites. IMBRA prevents US citizens from sponsoring multiple visas for foreign fiancé(e)s if they have a history of violent crimes. IMBRA also requires the government to give foreign fiancé(e)s and spouses of US citizens a copy of the criminal background check that the US Department of Homeland Security (“DHS”) does on US citizen-sponsors, as well as a copy of the visa sponsorship application that the US citizen fills out.

It is important to note, however, that neither this background check nor the sponsorship application may be complete or accurate. That is because DHS does not have access to all criminal history databases in the United States, and because the US citizen-sponsor may not have told the truth on his sponsorship application. It is also possible that the US citizen has a history of abusive behavior, but that he has not been arrested or convicted for this behavior. While IMBRA tries to provide the information that is available, ultimately, you are responsible for deciding whether you feel safe in the relationship.

IMBRA was the US government's response to growing concerns that many immigrating foreign fiancé(e)s and spouses did not have the ability to check out the backgrounds of their American fiancé(e)s and spouses on their own, and that some Americans who seek to sponsor foreign fiancé(e)s or spouses do have violent criminal histories that could put the foreign fiancé(e) or spouse at risk of harm. In 2005, for example, 420 family-based visa sponsorship applications were filed by convicted "sex offenders," 91 of which were to sponsor visas for foreign fiancé(e)s. "Sex offender" crimes include sexual assault and rape.³

These concerns were greater with respect to couples that use international matchmaking agencies to meet each other, because these courtships may take place over short periods or over long distances. While many happy marriages may still result, others may find themselves in abusive marriages. As a result, IMBRA also regulates some types of businesses that provide international matchmaking services, agencies that IMBRA calls "International Marriage Brokers."

How does the US government regulate "International Marriage Brokers"?

If an agency qualifies as an "international marriage broker," it is prohibited from doing business with you if you are under 18. The agency is also required to give you background information on the US client who wants to contact you, and get your written permission, before giving the US client your contact information. The agency is also required to give you a copy of this Pamphlet. It is important for you to know that the background information provided by the agency may not be complete or accurate, for many of the same reasons stated above. The US client may become your fiancé(e) or spouse. If you come to the United States and are abused, the information in this Pamphlet tells you about laws and services that can help you in the United States.

Other Rights and Resources for Immigrant Victims of Crimes Under US Law

Some of the terms below—domestic violence, sexual assault, child abuse, and human trafficking—may be unfamiliar to you, or they may have a different meaning or be treated by authorities differently in your home country than in the United States. The section below describes what these terms mean in the United States, and gives you additional information about the rights and resources available to victims in the United States.

What is Domestic Violence?

Domestic violence is a pattern of behavior that one intimate partner or spouse is forced to change his or her behavior in response to threats or abuse by the other partner. This pattern

³See Government Accountability Office (GAO), *Immigration Benefits: Circumstances under Which Petitioners' Sex Offenses May Be Disclosed to Beneficiaries*. [GAO-06-735](#) (Washington, D.C.: June 14, 2006).

may include physical abuse, sexual abuse (forced sexual relations), emotional abuse (including isolation, intimidation), economic and/or immigration related abuse. Domestic violence is illegal in the United States. All people in the United States (regardless of race, color creed, sex, age, national origin, immigration status, or ethnic background) are guaranteed protection from abuse under the law.

Many of the above acts are serious crimes in the United States, and all acts of domestic violence are wrong. Any victim of domestic violence—regardless of immigration or citizenship status—can seek help from a wide range of government and non-governmental agencies available to help them. An immigrant victim of domestic violence may also be eligible for certain protections available under immigration law, as explained above.

Is Domestic Violence common?

If you are experiencing domestic violence in your home, you are not alone. Domestic violence is usually hidden, but it is also very common. Domestic violence gets worse over time. It does not go away on its own. It is important to remember that the violence is not your fault, and help is available to you. Although domestic violence occurs among all cultural, ethnic and social groups, immigrants may be particularly vulnerable to domestic violence because many do not speak English, are often separated from family and friends, and may not understand the laws of the United States. This pamphlet is intended to help you understand US laws and know how to get help if you need it.

What is Sexual Assault?

Sexual assault is any type of sexual activity that you do not agree to, even with your spouse, including: (a) inappropriate touching (either directly or through your clothing) of your intimate parts (genitalia, anus, groin, breast, inner thigh, or buttocks); (b) vaginal, anal, or oral penetration; (c) sexual intercourse that you say “no” to; or (d) rape or attempted rape. It includes incest (sexual contact between family members); and can be committed by anyone (spouse, family member, friends, acquaintances, or strangers). Sexual assault is not the victim's fault, and help is available to victims.⁴

What is Child Abuse?

Child abuse includes actions such as: (a) **physical abuse**, any physical injury that does not happen by accident, including bruises, cuts, burns, fractures or sprains; (b) **physical neglect**, such as failure to provide food, clothing, shelter, medical care or supervision; (c) **sexual abuse**, such as the penetration or touching of a child's intimate parts, incest, rape, sodomy or indecent exposure or exploitation through prostitution; and (d) **emotional abuse**, including criticism, threats, or rejection, as well as withholding love, support, or guidance.⁵ Child abuse is a crime in the United States, including ‘corporal punishment,’ or excessive punishment.

⁴ Modified from National Women's Health Information Center, US Department of Health and Human Services, Frequently Asked Questions, available at <http://www.4woman.gov/FAQ/sexualassault.htm>.

⁵ Modified from *Definitions of Child Abuse and Neglect*, from the Child Welfare Information Gateway State Statutes Series, available at http://www.childwelfare.gov/systemwide/laws_policies/statutes/define.cfm.

What is Human Trafficking?

Human trafficking is also known as “modern-day slavery.” It happens when a person is made to work (either in a home or a business) or perform a sex act through force, fraud or coercion.

What are my rights under the “Family Law” of the United States?

Everyone, regardless of immigration or citizenship status, has certain protections under family law, including:

- The right to obtain a “protection order” for you and/or your child(ren).
- The right to obtain legal separation or a divorce without the agreement of your spouse. In a divorce case, the court can divide any property that you and your spouse have together. You may also request that your spouse help support you financially.
- The right to ask for custody of children that you and your spouse have together and for child support. Parents of children under the age of 21 are required under US laws to pay child support for any child that is not living with them.
- If there has been domestic violence in the marriage, victims can obtain a greater share of marital property, more spousal support and are more likely to get custody of the children.

It is important to consult a family lawyer that works with immigrant victims. You should also consult an immigration lawyer who has experience working with immigrant victims to discuss how any of these family law options may affect your immigration case.

What is a “Protection Order” and who can get one?

Anyone, regardless of immigration or citizenship status, may obtain a protection order (sometimes called a restraining order or an abuse prevention order). Through a protection order, a court can tell your abuser not to call, contact, or hurt you, your children, or other family members. Through a protection order, the court can also grant you temporary custody of your children, temporary child support, and have the abuser removed from your home. If you decide that it may be safer for you to leave your home, the police can help you and your children get out of the house and often they can drive you to a safe place. If your abuser ignores or violates the protection order, you can call the police to report him. Applications for protection orders are generally available at courthouses, women’s shelters, legal services offices and some police stations. It may be helpful to have a lawyer assist you in obtaining a protection order, but a lawyer is not required. Remember: a protection order is not a guarantee of your safety. You should work with a domestic violence specialist, social worker, or a trusted friend to create a “safety plan,” and call the police for help by dialing 911 if you or your child(ren) are in danger.

What is a safety plan?

Every individual in an abusive relationship should create a safety plan (which should be revised regularly), by: (a) considering all possible escape routes, such as doors, windows, and basement exits; (b) choosing a place to go, such as the home of a friend or relative; and (c) packing a survival kit, including money, change of clothes, contact information of shelters (emergency

housing) and legal service providers, and important documents (for you and your children), including passports and birth certificates, identification cards, and copies of any immigration papers related to you, your children and your spouse.

Taking action to end an abusive relationship can often lead to greater danger. Preparing a safety plan can help improve safety during and after separation and while you are seeking legal protections.

What are my rights under the “Criminal Law” of the United States?

Under US law any crime victim, regardless of immigration or citizenship status, can call the police for help, can obtain a protection order, and can access other help for crime victims provided by the government or by non-governmental agencies, which may include counseling, interpreters, emergency housing, and even monetary assistance depending on where you live.

If you call the police for help, they may arrest your fiancé(e), spouse, partner or another person if they believe that person has committed a crime. If your abuser is brought to court, you can ask the court to issue a criminal order telling the abuser not to contact you, stay away from you, and not harm you. You should show the police any injuries you or your children have and any property damage. You should also tell them about any abuse that has happened in the past. If the police officer does not speak your language, find a safe person to interpret for you or who can help you ask the police to get an interpreter. Most police officers do not enforce immigration laws. However, in some places, they do. If you are being abused you should talk to an advocate at a local domestic violence or immigrant community based program who can help you access legal protection and other services available in your community for victims.

If your abuser accuses you of a crime, you also have certain basic rights, regardless of your immigration or citizenship status, including: the right to consult with an attorney or to have one appointed for you by the government if you cannot afford one; the right to remain silent (i.e., not to answer questions from the police or others, and to speak only with your attorney; and the right to speak in your own defense if you wish. It is very important to consult with an immigration law attorney as well as a criminal law attorney to find out how a criminal conviction or plea could affect your rights under immigration law. As a non-citizen, certain kinds of criminal convictions or pleas may subject you to the risk of deportation.⁶

How can I get help if I am being abused?

The national “hotlines” listed below have operators trained to help victims available 24-hours a day. Hotline services are free, interpreters are available and these hotlines can connect you with a wide range of other free services, for victims in your local area, including emergency housing, medical care, counseling and legal assistance. Remember that if you cannot afford to pay an attorney, you may qualify for free or low-cost legal aid available to immigrant crime victims. Contact the nearest legal services agency or a non-profit victim advocacy organization that works with immigrants.

⁶ Modified in part from *Overview of Criminal Justice System*, by the National Center for Victims of Crime, available at <http://www.ncvc.org/ncvc/main.aspx?dbName=DocumentViewer&DocumentID=32345>.

For more information, please contact:

National Domestic Violence Hotline
I-800-799-SAFE (I-800-799-7233)
I-800-787-3224 (TTY)
www.ndvh.org

National Sexual Assault Hotline of the Rape, Abuse and Incest National Network (RAINN)
I-800-656-HOPE (I-800-656-4673)
www.rainn.org

National Center for Missing and Exploited Children
I-800-THE-LOST (I-800-843-5678)
www.missingkids.com

National Human Trafficking Hotlines

I-888-3737-888

I-888-428-7581 (US Dept of Justice (Monday—Friday, 9 am – 5 pm))

If you are in danger, however, do not call a hotline – call 911 to reach your local police quickly.

You can also access other non-hotline information and assistance through:

The National Center for Victims of Crime “HelpLine”
I-800-FYI-CALL (I-800-394-2255)
I-800-211-7996 (TTY)
www.ncvc.org

Legal Momentum’s Immigrant Women Program and National Resource Directory
www.legalmomentum.org

The National Network to End Violence Against Immigrant Women
www.immigrantwomennetwork.org

WomensLaw.Org