

Abuse Does Not Take A Holiday Vacation

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A common misunderstanding about domestic violence is that it spikes during the holidays. But regardless of when abusive incidents are most common, the truth is that coercive control does not ever take a vacation. Undocumented immigrants who have not been advised of their options by an immigration lawyer are especially vulnerable because they are often fearful of reporting domestic violence to the police due to their lack of lawful immigration status.

Undocumented immigrants sadly often suffer in silence because of their fears of coming forward. They mistakenly think there is nothing they can do and that enduring the abuse is their only option. But they do not necessarily need to continue being abused, or to continue to be threatened with deportation. Rather, legal remedies do exist that could put an end to the intimidation, manipulation, economic abuse, or even the involvement of children.

What can be done to help an undocumented immigrant depends on a lot of factors, including where the noncitizen is in the immigration process. For example, if an immigrant is married to a U.S. citizen and a petition for permanent resident status (green card) has already been filed, there is a natural inclination to stay in the relationship. And understandably so, as the immigrant would feel

that they could simply continue to endure the abuse for a little while longer since they are so close to getting their green card. But staying in the abusive relationship is not always required!

Non-U.S. citizens may be able to petition themselves based on the abuse that the U.S. citizen spouse has inflicted on them. These self-petitions are filed with the U.S. Citizenship and Immigration Service. There are several requirements that must be met to successfully file a self-petition, including proving that the foreign citizen was the victim of battery or extreme cruelty. Threats to have a person deported or turned over to Immigration and Customs Enforcement (ICE) can sometimes amount to extreme cruelty. These petitions can still be filed even if the marriage has been terminated, so long as the petition is filed within two years of the marriage being terminated. The self-petitioner must also establish that there is a connection between the abuse and the termination of the marriage.

It is important to remember that you do not have to be married to a U.S. citizen to file a self-petition based on abuse. For instance, you may still be able to file a self-petition if you have suffered battery or extreme cruelty by your U.S. citizen or permanent resident parent, or by your U.S. citizen son or daughter.

There is also a way for abused spouses to get their green cards if they have already been placed in deportation proceedings before an immigration judge. They may be able to request a form of relief called "Special Rule Cancellation of Removal for Battered Spouses and Children." There are certain requirements the noncitizen must meet to be granted this form of relief, such as three years continuous physical presence, good moral character, and the lack of any disqualifying crimes. The immigration judge must also decide to favorably exercise their discretion, and if they do, the applicant will become a permanent resident of the U.S.

Occasionally, a person is abused *after* they have been ordered deported to their native country. Despite the outstanding order of deportation, a green card may still be possible in this case, though it is significantly more complex. The noncitizen would be required to reopen their case in immigration court before they would be eligible for their green card. Be careful about submitting a poorly prepared request to reopen the case though, because there are limits on how many requests may be submitted. But it is still important to act timely because there are also strict time limits on when the request must be made. Regardless, it may also be advisable to obtain an approved self-petition before requesting the court case to be reopened.

The sad reality is that there are far too many victims of domestic violence, both documented and undocumented. For immigrants, please know that there are several potential immigration remedies for those who have suffered battery or extreme cruelty. Our office has successfully helped many immigrants find freedom so that they may continue to heal and feel safe. If you or someone you know may be a victim of domestic violence, please contact an experienced and knowledgeable immigration attorney regarding possible options.