# Case

## Certification Good

### Crime

#### The certification process is necessary for the safety of immigrant communities.

HRI, 2017 (Human Rights Initiative, “What Will Happen to Mateo & Josephina?”, March 14, <http://www.hrionline.org/category/u-visa/>, shae)

The cooperation of immigrants with local law enforcement is a crucial part of community policing. Mateo’s story is one of hundreds we have heard at Human Rights Initiative of North Texas (HRI) in our work with U Visa applicants. The federal government created the U Visa because law enforcement realized that immigrant victims and witnesses to lawbreaking often are fearful of reporting those crimes, cooperating with police and testifying in court due to a fear of deportation. The U Visa incentivizes and rewards immigrants for reporting serious offenses and assisting in the prosecution of criminals. To qualify for a U Visa, law enforcement must certify that that applicant helped them with the case. Applicants must also show that they suffered mental or physical trauma due to the crime, that they will continue to assist law enforcement with whatever is needed, and that this help furthers U.S. goals of protecting immigrant victims of crimes. NEW ADMINISTRATION Mateo applied for a U Visa and is waiting for one to become available to him, since only 10,000 are granted a year. But this type of cooperation is now in serious jeopardy as fear looms in immigrant communities based on the new government policies and recent raids. In the week leading up to February 13, 2017, Immigration Customs and Enforcement (ICE) reported that it had arrested 680 people for immigration violations. While ICE claimed these were routine roundups and not part of a new effort on its part, President Trump tweeted that this was part of his new plan to get tough on immigrants. Indeed, the executive order and DHS memo on Interior Enforcement contemplate a large deportation force detaining and ultimately deporting thousands of immigrants, regardless of their criminal history. Under President Obama, ICE was instructed to prioritize for arrest serious felons, recent entries and people who had been previously deported. The new executive order does not focus on serious criminals but instead lists – without prioritizing anyone – all the different types of people who can be picked up. This includes anyone who is suspected of ever committing a crime, even without a conviction. Thus, an alleged jaywalker is now considered the same priority as a murderer for ICE to find, detain and deport. Deporting families and long-time residents takes the same precedence as removing serious criminals. This is striking fear in the hearts of many immigrant families. The executive order and DHS memo also propose several partnerships with law enforcement that would deputize local police to enforce immigration laws. Local governments are often opposed to these associations because they want to focus on preventing and solving crimes; they are too busy and it is not their role to enforce immigration laws. Prior programs that affiliated federal immigration with local law enforcement were widely criticized and led to costly lawsuits due to abuses including increased racial profiling and a lack of oversight. ABUSED These policies make our communities less safe. They will make it much more difficult for law enforcement to obtain cooperation from immigrant victims and witnesses to crimes. Our client Josephina\* was able to put her abuser behind bars because she trusted the police would help her despite the fact that she was undocumented. She was in a relationship with a U.S. Citizen who physically and emotionally hurt her. When she tried to leave him, he attacked her, pushing her against a wall and punching her face and head several times with his fist. Josephina was able to get away and called the police. She prosecuted him for assault and he was found guilty. She also has applied for a U Visa. MATEO, JOSEPHINA & HRI We need people like Josephina and Mateo to feel safe calling the police, reporting crimes and helping with the investigation and prosecution. At HRI, we are concerned that these new government policies will undermine our security by equating all immigrants with dangerous criminals and breed distrust between immigrants and the police we rely on to keep us safe.

#### Law enforcement cooperation builds trust within immigrant communities.

Darehshori, 2018 (Sara – Senior Counsel in the US Program @ Human Rights Watch, “Immigrant Crime Fighters”, Human Rights Watch, 06/03/18, <https://www.hrw.org/report/2018/07/03/immigrant-crime-fighters/how-u-visa-program-makes-us-communities-safer#b415a7)>

The U and T visa programs are essential tools for police, enabling them to reassure immigrants that they will not be deported if they report crime. Law enforcement officials we spoke with described numerous ways in which the U and T visa programs helped with their work and, as a result, improved safety for the entire community. Most emphasized the immediate practical benefits of ensuring that victims are able to assist with investigations. Importantly, nearly all the officials also emphasized the longer-term benefits: when members of vulnerable communities, particularly undocumented women who may be targeted for violence, see that others who assist police are protected and not punished, it creates greater confidence that going to law enforcement will help rather than hurt them. In this way, the U and T visa programs strengthen the safety of communities regardless of the outcome of individual cases.

### Domestic Violence

#### U visa certification requirements are reducing domestic violence in migrant communities.

Darehshori, 2018 (Sara – Senior Counsel in the US Program @ Human Rights Watch, “Immigrant Crime Fighters”, Human Rights Watch, 06/03/18, <https://www.hrw.org/report/2018/07/03/immigrant-crime-fighters/how-u-visa-program-makes-us-communities-safer#b415a7)>

Many recipients of U visas are victims of domestic violence who may not have otherwise come forward. In these cases too, the community as a whole benefits from efforts to curb abuse within families. For example, Alameda County’s Family Justice Center serves a significant number of immigrant women who are victims of domestic or sexual violence. District Attorney O’Malley stresses that her office is open to everyone and they do not ask about immigration status because they want to ensure all victims are safe. They explain that if the person is without documentation they are eligible for a visa and they will assist in the process. She says her office’s message is “if you are a victim of a crime, do not suffer in silence, come forward.”[61] She says “So many sexual assault victims do not come forward because of shame and for domestic violence victims they also may be economically dependent on their abuser. If we can assure them that we will protect them and give them a pathway to permanent residence, more people will report.” She also explained that violence in the home impacts more than just the spouse, “When domestic violence exists in a community, it affects everyone. Kids act out in school and when they become adults, the untreated trauma continues to impact their lives. It permeates the whole community.”[62]

## No Solvency

### Backlog

#### Staff shortages make it impossible to reduce the backlog

Darehshori, 2018 (Sara – Senior Counsel in the US Program @ Human Rights Watch, “Immigrant Crime Fighters”, Human Rights Watch, 06/03/18, <https://www.hrw.org/report/2018/07/03/immigrant-crime-fighters/how-u-visa-program-makes-us-communities-safer#b415a7)>

Several prosecutors said that the problem with the U visa program is that it is not more widely available. The primary problem several interviewees cited was the cap on the number of visas.[84] As previously mentioned, Congress permits only 10,000 U visas to be granted each year for principal applicants.[85] The number of petitions far outstrips availability: 36,531 victims submitted U visa applications in Fiscal Year 2017.[86] If a case is deemed “approvable” after review but there is no visa available due to the cap, the applicant may be placed on a waitlist, granted deferred action, and may receive work authorization until the U visa becomes available. However, because of the backlog, and the lack of sufficient staff to review these cases, it currently takes more than four years from the time USCIS receives the immigration petition until a victim is placed on the waitlist.[87] According to USCIS, 117,738 victims’ petitions are currently pending adjudication.[88] The delay is due in large part to the relatively low numbers of USCIS adjudicators working on these cases, far fewer than necessary to keep up with the volume.[89] Some estimate the process could take eight years which could be a problem for law enforcement if members of the community do not see a benefit from applying for a U visa. As the Denver district attorney’s office said, “If the delay is too long, it could limit the value of the tool.”[90]

#### Eliminating certification makes the backlog worse.

**Roddin, 2014** (Andrew – Assistant District Attorney in the New York County District Attorney's Office, “Certified: How the U Visa Petition Process Prevents Fraud and Promotes Safe Communities”, 12 Geo. J.L. & Pub. Pol'y 805)

At least two commentators have recommended that the law enforcement certification requirement be eliminated altogether" 8 or that language that indi cates that the certification is discretionary be removed from the I-918B form.11 9 Neither is a good idea. The law enforcement certification, as Part III describes, is the most effective safeguard the U Visa process provides against the threat of fraud, and assisting law enforcement efforts is the primary goal of the U Visa program. Therefore, it makes sense that the law enforcement agencies that work with unauthorized immigrant victims should be gatekeepers to the approval of U Visa petitions. These agencies, having dealt with the victim personally, are in a better position than USCIS to determine how helpful she has been 20 and how much the agency and the community benefitted from her assistance. The discretionary language on the I-918B is also crucial to maintaining the integrity of the U Visa process. If completing the form were not discretionary, police departments could be forced to certify the helpfulness of unauthorized immigrant victims in cases where the term "substantial abuse" hardly applies.1 2 1 The Vallejo (CA) Police Department, for example, received a request for certification from a woman whose son slapped her after she asked him to leave the computer.12 2 The certifying official denied the request, saying, "That's not what the spirit of this was intended for." 2 3 Had the official been required to complete the I-918B, it is unlikely that the petition would have received approval from USCIS,1 24 but it would have been one more petition to review, contributing to the considerable backlog.125

### ICE

#### ICE Will deport U visa applicants regardless of the aff.

Caplan-Bricker, 2017 (Nora – a contributing writer for DoubleX, “Under Trump, Undocumented Immigrants Who Suffer Abuse May Face an Impossible Choice: Silence or Deportation”, Slate, March 19, http://www.slate.com/articles/news\_and\_politics/cover\_story/2017/03/u\_visas\_gave\_a\_safe\_path\_to\_citizenship\_to\_victims\_of\_abuse\_under\_trump.html)

On Feb. 9, a transgender woman named Irvin Gonzalez entered a courthouse in El Paso, Texas, seeking a protective order against her abusive ex-boyfriend, who she said had punched, kicked, and choked her and, in at least one episode, chased her with a knife. As she waited her turn to see the judge, she and her caseworker learned something shocking: ICE had received a tip about the hearing and had come to arrest her. Gonzalez believes the tip could only have come from her ex, who had been served with an order to appear there himself. When she walked out of the courtroom, protective order in hand, two plainclothes officers came forward and took her into custody. Since then, Gonzalez, a citizen of Mexico, has been behind bars, awaiting deportation proceedings. In late February, her lawyer filed for a U visa, but it seems unlikely that she will be able to stay in the U.S. for the time it takes immigration services to process an application, which can be between two and three years. Gonzalez’s arrest made national headlines, and her case has sent ripples of fear through immigrant communities. Immigration agents are compelled by law to avoid using tips from abusers and to treat any arrest at a protective order court as a measure of last resort. El Paso County Attorney Jo Anne Bernal told me she can’t remember such a thing happening in her city before—but no one can be sure it won’t happen again. Trump’s law-and-order rhetoric is emboldening the aggressive tendencies for which ICE and Customs and Border Protection, or CBP, are known. “For the first time in my 19 years, I feel like I can do the job I was hired to do, the job they tell you you’ll be doing when you leave the academy,” one border patrol agent recently told the New York Times. Days after the Gonzalez arrest became public, Bernal’s office received a call from an undocumented woman who was scheduled to appear in the very same court to receive a protective order against her abusive husband. She was now desperate to dismiss the case. “She was afraid her husband would call immigration authorities and she would be separated from her children,” Bernal said. She wonders how many victims out there have made similar calculations: “We can keep track of how many people have changed their minds but can’t keep track of the people who are victims in the community who won’t come forward.” A few days later, the city attorney in Denver told a local news station that four victims of domestic violence had backed out of cases after plainclothes ICE officers were filmed staking out that city’s courthouse.

### Trump

#### Trump thumps their solvency – immigrants won’t trust the plan.

Caplan-Bricker, 2017 (Nora – a contributing writer for DoubleX, “Under Trump, Undocumented Immigrants Who Suffer Abuse May Face an Impossible Choice: Silence or Deportation”, Slate, March 19, http://www.slate.com/articles/news\_and\_politics/cover\_story/2017/03/u\_visas\_gave\_a\_safe\_path\_to\_citizenship\_to\_victims\_of\_abuse\_under\_trump.html)

In particular, the visa was conceived as a lifeline for victims of repeated violence, at home or in the workplace, who, like Anabel, saw no way out. Orloff’s research has shown that the majority of victims continue working for or living with their abusers until they get legal authorization to work, which makes it economically possible to leave. In more than a quarter of U visa cases, perpetrators attempt to get the victim deported, to silence someone who could speak against them. But advocates no longer know how to square the visa’s message that police can be a force to protect immigrants with Donald Trump’s promise to deport as many of the undocumented as possible—and to enlist local law enforcement as part of that effort. On Jan. 25, Trump signed an executive order that vowed to do away with “classes or categories” and instead consider “all removable aliens” subject to deportation. To accomplish this, the order says, the Department of Homeland Security will partner with police departments, training them “to perform the functions of immigration officers in relation to the investigation, apprehension, or detention of aliens.” That policy represents a distinct shift in federal priorities. Though Barack Obama deported more immigrants than any previous president, in his second term, he directed DHS to prioritize the removal of gang members, convicted felons, and national security threats, as well as recent entrants into the country. Longtime residents—who worked, paid taxes, and, in many cases, had children who were U.S. citizens—would most likely be allowed to stay. In a 2011 memo, the administration added a special protective note about the class of people who seek U visas: “Absent special circumstances or aggravating factors, it is against ICE [Immigration and Customs Enforcement] policy to initiate removal proceedings against an individual known to be the immediate victim or witness to a crime.” ICE spokeswoman Danielle Bennett told me that the 2011 policy remains in effect and that ICE “will take into consideration if an individual is the immediate victim or witness to a crime, in determining whether to take enforcement action.” But immigrants and their advocates see a changed picture. When law enforcement collaborates with ICE, this means that jails that book an undocumented person alert the immigration agency. In domestic violence cases, it’s common for both abuser and victim to be picked up by police for disturbing the peace or for the man (and the batterer is usually a man) to accuse the woman of “starting it.” In addition to enlisting police as partners, Trump’s executive order extends deportation priority to those who “have been charged with any criminal offense, where such charge has not been resolved.” ICE defends that conflation of criminal charges and convictions: “The people being taken to jail by cops are criminals,” an ICE official told me in defense of the program, on condition of anonymity. But attorneys around the country told me they believe this policy will sweep up victims of domestic violence, putting them on a fast track to deportation before they can seek legal status through U visas, or justice through the legal system. In interviews this February and March, over three dozen lawyers, advocates, and immigrant survivors of abuse from every region of the U.S. told me that, now more than ever, victims are choosing the violence in their own homes over the unknown consequences of exposure. “I fear for their lives,” Miriam Guillen, a U visa recipient who now counsels other survivors at the grass-roots organization Mujeres Unidas y Activas in the Bay Area, told me. But she also understands their choices: While most immigrants fear deportation and separation from loved ones, many of these women will do anything to avoid leaving their children in the sole custody of an abuser. “The U visa has been this sort of safe avenue,” said Katy Lewis, an immigration attorney in San Francisco, “and for good reason.” By creating a relatively secure path to legal status, the system encourages fearful people to come forward and, by extension, protects whole communities. Now, Lewis said, “We just don’t know what to expect … I can tell you I’ve told people, ‘You should not go ahead with this right now.’ ”

#### The Trump administration is hostile to immigrants – results in a chilling effect.

Caplan-Bricker, 2017 (Nora – a contributing writer for DoubleX, “Under Trump, Undocumented Immigrants Who Suffer Abuse May Face an Impossible Choice: Silence or Deportation”, Slate, March 19, http://www.slate.com/articles/news\_and\_politics/cover\_story/2017/03/u\_visas\_gave\_a\_safe\_path\_to\_citizenship\_to\_victims\_of\_abuse\_under\_trump.html)

Attorneys fear a world in which visa applications themselves could increase a person’s risk of detection by ICE. “There’s been an understanding between USCIS and attorneys that they aren’t going to implement policies that are going to prevent survivors from applying,” said Sarang-Sieminski. Most important, “Even when an application is denied, they’re not in the business of referring these denied cases for removal. That would certainly have an enormous chilling effect on survivors.” The administration hasn’t indicated that this will change, but “it’s a worry,” Sarang-Sieminski said. “I’ve heard over and over again from advocates, ‘Should survivors be applying for any of this at all?’ ” Since Trump’s election, the National Immigration Law Center has advised immigrants who were brought to the U.S. as children to avoid applying for legal status through the Deferred Action for Childhood Arrivals program, or DACA, if they don’t already have it—so as not to put their names in the system. Attorneys who work on U visas are now almost as cautious. Flanagan, in Arizona, is putting her own address in place of her clients’ when she files information requests about cases. She’s also, in her words, “advising clients that, if they haven’t had previous contact [with immigration], this may bring attention to them”—which she said she wouldn’t have worried about under Obama. Lewis is similarly concerned about filing applications. “If someone is already in ICE proceedings, I might say it’s OK to take this avenue,” she told me. “In the case of someone who’s not on the government’s radar at all, I might say let’s wait a little longer and see how this administration is processing these.” “One of the hardest things to say to a client is, ‘I don’t know what would happen to you; I don’t have an answer,’ ” said Melissa Untereker, the immigration attorney in El Paso who is representing Irvin Gonzalez. With clients who are still in the shadows, she fears that “it could really be a risk to put themselves out there … Will ICE access that information, and will they take an enforcement action because of it? I don’t know what to tell them. It’s really scary.” Of course, what’s worrisome to advocates is terrifying to immigrants, who never know when ICE might show up at the door. “I had a client tell me, ‘I wish I’d never called the police,’ ” Glenaan O’Neil, regional director of immigrant victim services with the Texas Civil Rights Project, told me. That woman’s U visa application is already sitting in a pile at the Vermont Service Center. It’s too late for her to seek safety in secrecy. “I’m scared because immigration has my fingerprints, my address, my photo,” Maria Cortes, a 29-year-old in Oakland who applied for a U visa in 2014, told me through an interpreter. “I’m scared to be at home because I’m worried they’re going to come for me.”

# Reform CP

## 1nc

#### The United States federal government should lift the cap on the U visa, condition 287(g) enforcement on local cooperation with law enforcement certification requirements of the U visa, increase law enforcement training for U visa cases, and grant deportation protection through deferred action to anyone waiting for a U visa application to be processed.

#### The CP solves law enforcement abuses of the certification system while resolving migrant fears of deportation.

Cade and Flanagan, 2018 (Jason A. – Associate Professor @ the University of Georgia School of Law, and Meghan L. – Fellow in the Wilbanks Child Endangerment and Sexual Exploitation Clinic @ the University of Georgia School of Law, “Five Steps to a Better U: Improving the Crime Fighting Visa”, 21 Rich. Pub. Int. L. Rev. 85)

If the Executive Branch is serious about fighting crime, it should take measures that counteract the fear and uncertainty that noncitizens face when deciding whether to report crime to law enforcement officials. One effective measure would be to condition federal-state cooperative enforcement agreements on local officials' willingness to follow federal statutory and regulatory law with respect to U certifications. The 287(g) program already requires federal authorities to train local partners on immigration law.- In the past, the Executive Branch has terminated 287(g) contracts with localities that violated federal law.- Since U visa rules are a part of immigration law, the Executive could require compliance with federal standards for U certifications before recognizing or renewing a 287(g) jurisdiction. Another similar approach would be for the Executive Branch to condition federal law-enforcement grants on compliance with federal U visa rules. The constitutionality of such an approach, however, is less clear. In general, the Executive Branch lacks authority to impose new conditions on federal grants that were not contemplated by Congress and clearly agreed to by recipient states.-s Thus, unless the particular federal grant at issue specifically authorizes the Executive to implement immigration-related requirements, the Administration would likely lack authority to condition receipt of federal funds on compliance with federal U visa rules. On the other hand, Congress may well have the power to condition federal law enforcement grants on the willingness of state and local recipients to appropriately follow federal statutory and regulatory law concerning the U visa. To be sure, the authority of Congress to use federal funding as a lever to compel states and cities to implement federal policies is constrained by the Constitution.- Congress may authorize spending conditions only if they are "germane" to the grant's underlying purposes. Measures designed to increase public safety through effective law enforcement, such as providing protection to noncitizen crime victims, would likely be germane to several federal law enforcement grants. The Edward Byrne Justice Assistance Grant, for example, administered by the Office of Justice Programs, specifically provides that its purpose is flexible assistance for programs like "law enforcement, prosecution, . . . crime prevention . . . , and crime victim and witness initiatives."- These multiple goals would be directly furthered by better alignment of local law enforcement practices with federal U visa requirements. Thus, it is likely that Congress could constitutionally impose, as a condition on these grants, the requirement that states adhere to federal standards when certifying that a noncitizen was the victim of qualifying criminal activity and is willing to assist any investigation or prosecution. A somewhat less impactful but still highly useful Executive Branch approach would be to provide federally-funded trainings regarding federal standards for the U visa, especially in jurisdictions where local authorities regularly engage in immigration enforcement. Either way, the federal government should help ensure that state and local officers do not impose constraints on U visa certifications that go beyond federal requirements. In particular, the federal government should direct or encourage agencies not to decline to certify simply because the criminal activity occurred long ago, or because the agency decides not to investigate or prosecute further. C. More Timely Deferred Action for U Visa Applicants At the agency level, USCIS could improve on the current scheme by providing deferred action to U applicants on a timelier basis. Currently, the agency does not make a conditional adjudication until the application has already been waiting for many years. As a result, the applicant remains subject to detention or deportation for a period that extends long after the decision to report crime and assist police has to be made. USCIS should make a prima facie determination of eligibility within 6 to 12 months of the application's submission, providing deferred action to those who appear to qualify. Deferred action provides no real immigration benefit except the opportunity to apply for employment authorization and a temporary, revocable assurance that the person will not be deported for a temporary basis. For its part, ICE should revise prosecutorial discretion policies such that U applicants who have yet to receive deferred action are generally not a removal priority, even if they are deportable on the basis of unlawful entry or presence. While some noncitizens who experience crime and cooperate with police might nevertheless remain enforcement priorities for the current Administration due to their own criminal history, this policy change would encourage noncitizen victims who are otherwise law-abiding to come forward and assist law enforcement. D. Increasing the Annual Cap on U Visas Congress could ameliorate some of the problems with the current implementation of the U visa by increasing the annual statutory cap on U visas. As discussed in Part II, the number of available visas is far outstripped by the number of noncitizens who are victimized. Additionally, because the agency did not issue regulations for over seven years, many noncitizens who could have applied earlier were unable to do so. The resulting backlog has created a waiting list that currently will take a decade to clear. This situation leaves vulnerable noncitizens in a liminal status even after coming forward to the police, which works against the goals of the U visa legislation. Accordingly, Congress should substantially increase the number of annual U visas. A reasonable number for this revised cap would be 34,000 per year, which is approximately the number of primary victim U applications that were filed annually in 2016 and 2017, subtracted by the number denied those years. A related statutory reform would be to provide for automatic deferred action for those whose applications are pending in the U visa waitlist.

## Solvency

### Lift the Cap

#### Lifting the cap and offering deportation protection will increase utilization of the U visa without sacrificing crime reporting

Huettman, 2017 (Melanie – University of Iowa College of law, “The U Visa Unites Law Enforcement and Immigrants”, Niskanen Center, July 20, https://niskanencenter.org/blog/u-visa-unites-law-enforcement-immigrants/)

America’s immigration discourse is dominated by debates over the legality of a travel ban and the cost of a border wall, but other aspects of our immigration system deserve a closer look. The little-known U visa is one such immigration program that helps immigrants and law enforcement alike, but requires some changes to continue to operate successfully in communities across the United States. The U visa offers temporary legal status to those who are a victim of, or witness to, a crime in the U.S. as an incentive to cooperate with law enforcement in its prosecution, despite their fear of deportation. It is especially helpful for victims of domestic violence, who often fear both deportation and retaliation from their abusers, and is particularly effective in prosecuting gang violence. Agencies using the visa report that individuals are more likely to report past criminal activity, and immigrant crime victims are more likely to reach out to the police, regardless of whether they will apply for legal status. However, three major issues trouble the program. First, the arbitrary cap on U visa numbers has led to a significant backlog. Second, the Trump administration’s immigration enforcement policies have led to a reduction in applications. Finally, bureaucratic delays hurt the program’s ability to succeed. Increasing the cap and changing enforcement priorities would enhance public safety and provide protection to those who need it. The Backlog The government offers only 10,000 principal U visas each fiscal year—the cap does not apply to visas given to certain family members of principal recipients—but a backlog of applications still exists. Through March of this year, there were 97,746 U visa applications pending for actual crime victims, and a total of 168,811 applications pending, including family members. The swelling backlog shows that not enough visas exist to meet the demand for this program. The 2013 immigration reform package included an increase from 10,000 to 18,000 per fiscal year to address this problem. With a backlog three times what it was just four years ago, Congress should again consider raising the cap. The U visa and Undocumented Domestic Violence Victims Supporters of the U visa decried President Trump’s immigration enforcement policies, which has led to a decrease in undocumented victims seeking protection. According to a 2011 study, 75 percent of U visas are granted to undocumented victims of domestic violence. Generally, absent special circumstances or aggravating factors, it is against Immigration and Customs Enforcement (ICE) policy to initiate removal proceedings against an individual known to be the immediate victim or witness to a crime. However, the expansion of enforcement has led many of these individuals to remain silent about abuse, rather than risk deportation. Their fears are well founded. Undocumented women have been apprehended by ICE at courthouses while seeking protective orders. Abusers now feel emboldened to threaten and retaliate against their victims by reporting them to ICE. Once reported, the victims have little opportunity to seek recourse. These stories have led to fewer undocumented domestic violence victims seeking U visas because they’re afraid to return home, or reluctant to leave their children. Some have simply dismissed their cases rather than draw attention to themselves. Others file for a T visa instead because, despite having a higher burden of proof, the the wait times to be granted this visa are shorter. Law enforcement services have also noted a decrease in reported domestic violence and sexual assault crimes this year, thereby reducing the number of people eligible for the U visa. Reports from the Latino population in Los Angeles have dropped 25 percent. Houston, Texas has seen a 42 percent reduction in reported rapes compared to last year. Trafficking hotlines have seen a 50-70 percent decrease in calls compared to last years numbers. Bureaucratic Delays In spite of the reduced number of applications for a U visa, the vast number of pending applications has reduced the efficiency of the system. Applicants often wait two to three years without any deportation protection before a decision is made on their application. If their application is approved, the recipients wait one to two more years before they actually receive their visa, though they are granted work authorization and deportation protection in the meantime. Law enforcement inaction has also created delays. Currently, it takes several months to get an application together, often because law enforcement officers are slow to provide certification that the crime occurred and the applicant was cooperative. California has made efforts to combat these delays through state law, which requires that law enforcement officers respond to certification requests within ninety days after they are submitted. The law also holds law enforcement accountable by requiring that they submit annual records of applications received, approved, and denied. The Trump administration has made it clear that combating crime is one of their main focuses. The U visa gives them a tool to fight violent crime and make communities safer, but it remains underutilized. While bureaucratic inefficiencies may not give rise to public indignation, backlogs and delays make victims less likely to come forward. As a result, crimes go unreported and criminals unpunished, making us less safe. Empowering crime victims to provide crucial information and testimony that helps build the case against violent offenders should be welcomed. It’s time to expand the U visa cap and alter enforcement priorities to provide deportation protection to many more crime victims that can help put violent offenders behind bars.

### Training

#### Education and training requirements solve barriers to LEC implementation

Nanasi, 2016(Natalie – Assistant Professor and Director of the Judge Elmo B. Hunter Legal Center for Victims of Crimes Against Women @ the Southern Methodist University Dedman School of Law, “THE U VISA’S FAILED PROMISE FOR SURVIVORS OF DOMESTIC VIOLENCE”, SMU Dedman School of Law Legal Studies Research Paper No. 341)

Additionally, even if the U visa retains the law enforcement certification requirement, there are ways to mitigate its negative impacts. The U.S. Citizenship and Immigration Services currently provides resources and information to law enforcement about the U visa, but while it encourages local agencies to participate in the U visa program, it does not require them to do so.175 USCIS could take a more active role and mandate the cooperation of law enforcement agencies. While the federal agency could likely not force local officials to sign individual U visa certifications, as such a determination is best left in the hands of those who are most familiar with a victim’s helpfulness and cooperation, USCIS could require localities to designate certifiers within their relevant agencies, direct that the certifiers receive appropriate education training,176 and maintain a national database of these certified certifiers. The issuance of new or updated DHS policy memoranda might also go a long way in providing additional guidance to agencies. Although this proposal would not solve all the problems discussed above, ensuring that an adequately trained official conducts a fair review of a law enforcement certification request would provide a level of certainty to applicants and eliminate some risk of deportation and arrest for survivors.

## Net Benefit

### Certification Key

#### Eliminating the certification requirement leads to rampant criminal activity.

**Segal 16** (Alexander J. – Founding partner @ The Law Offices of Grinberg & Segal, P.L.L.C., “U Visa Law Enforcement Certification”, Medium, March 4, <https://medium.com/@MyAttorneyUSA/u-visa-law-enforcement-certification-9201be76c31>)

The U nonimmigrant visa category is for certain victims of particularly serious crimes who cooperate with law enforcement in the investigation or prosecution of the criminal activity. [1] In order to be eligible for a U visa, the applicant must obtain what is called “law enforcement certification” on the Form I-918, Supplement B. In this article, we will use the United States Citizenship and Immigration Services’ (USCIS’) Law Enforcement Certification Guide (“LEC Guide”) to review the requirements for law enforcement certification. Under section 214(p)(1) of the Immigration and Nationality Act (INA), a U visa petition must include a law enforcement certification signed by the law enforcement agency investigating or prosecuting the crime. Under 8 C.F.R. 214.14(c)(2)(i), the law enforcement certification must be submitted within 6 months of the filing of the Form I-918 petition for U status. The LEC Guide provides the following non-exhaustive list of persons and entities that may sign a law enforcement certification: Federal, State, and Local law enforcement agencies; Federal, State, and Local prosecutors’ offices; Federal, State, and Local Judges; Federal, State, and Local Family Protective Services; Equal Employment Opportunity Commission; Federal and State Departments of Labor; and Other investigative agencies. In addition to being required by statute, the law enforcement certification attests to USCIS the following (per the LEC Guide): The petitioner was a victim of a qualifying crime; The petitioner has specific knowledge and details of the crime; and The petitioner has been, is being, or is likely to be helpful to law enforcement in the detection, investigation, or prosecution of the qualifying crime. In short, the law enforcement certification will serve as evidence that the U visa applicant was the victim of a qualifying particularly serious crime for purpose of U visa eligibility and that he or she is fulfilling her statutory and regulatory requirements to assist law enforcement in the investigation and/or prosecution of the criminal activity. It is important to remember that under 8 C.F.R. 214.14(a)(14)(iii), a person who was culpable in the crime in which he or she is a victim is ineligible for a U visa. Law enforcement certification is necessary, but not sufficient, for U visa eligibility. Ultimately, the decision on whether to grant a U visa is in the discretion of USCIS. USCIS may decide to deny a U visa petition even if the applicant has obtained the requisite law enforcement certification. However, the decision on whether to sign a law enforcement certification is solely in the discretion of the authority that is investigating or prosecuting the criminal activity in question. Neither a crime victim nor USCIS may compel the law enforcement authority to sign a law enforcement certification. If the law enforcement authority refuses to sign law enforcement certification, the U visa applicant will be ineligible for a U visa. It is important to remember the purpose of the U visa category. The U visa exists not only to provide immigration relief to victims of particularly serious crimes, but also as a powerful inducement to such victims to assist authorities in in the investigation and possible prosecution of the criminal activity. Both components are necessary in order for a crime victim to be eligible for a U visa. Accordingly, it is imperative that the crime victim comply with all reasonable requests for assistance from law enforcement. However, there are limited situations in which the crime victim may have someone else provide information on his or her behalf. These situations arise when the crime victim is under the age of 16, incompetent, or incapacitated at the time of his or her victimization. In this situation, a parent, guardian, or “next friend” may provide information on the crime victim’s behalf (a “next friend cannot be a party to a legal proceeding involving the crime victim and does not qualify for immigration benefits by acting as a “next friend”). However, it is important to remember that the parent, guardian, or next friend must possess information that will be of use to law enforcement. In limited cases, the “indirect victim” of a particularly serious crime may be eligible for a U visa. Under 8 C.F.R. 214.14(a)(14), the alien spouse or child(ren) under 21 years of age of the direct victim may qualify as indirect victims if the direct victim is deceased due to murder or manslaughter or is incompetent or incapacitated and thus unable to assist in the investigation of the criminal activity. If the direct victim is under the age of 21, his or her parents or unmarried sibling(s) under the age of 18 may qualify as indirect victims. The LEC Guide explains that the immigration status of the direct victim in such a case is not relevant. The LEC Guide explains that in order for the parent of a direct victim under the age of 21 to qualify as an indirect victim for U visa eligibility, he or she will be required to possess information about the crime and be helpful to law enforcement. The LEC Guide explains that in order to be eligible for a U visa, the applicant must comply with “all reasonable requests for assistance” by law enforcement. Furthermore, this obligation does not end once law enforcement certification has been signed. If the U visa applicant subsequently refuses to comply with a reasonable request for assistance, the law enforcement agency has the discretion to withdraw or disavow its law enforcement certification. Furthermore, in order to adjust from U visa status to permanent resident status, the U visa holder must be found to have complied with all reasonable requests for assistance. However, there is no specific requirement for “helpfulness” aside from having information that is useful to law enforcement authorities and complying with all reasonable requests for assistance. In fact, law enforcement certification may be granted to an alien who was helpful to law enforcement in a case that was subsequently closed. Law enforcement certification may also be granted when prosecution is unlikely. Accordingly, there is no particular requirement that an alien testify against the perpetrator at trial. However, if the crime victim is asked to testify, he or she may not unreasonably refuse to do so. Law enforcement certification may be granted even if a different crime is prosecuted than the crime that the U visa applicant was a victim of. The LEC Guide uses the example of a case where police determine in the course of a drug trafficking investigation that the drug trafficker’s alien wife is a victim of domestic violence (which is a qualifying crime for U visa purposes). The wife in such a case would be eligible for law enforcement certification as the victim of domestic violence even if the domestic violence is not prosecuted and she is assisting law enforcement instead with the drug trafficking investigation. The LEC Guide is useful for understanding how the law enforcement certification process works. The victim of a particularly serious crime that is covered in the U visa rules should consult with an experienced immigration attorney for guidance. During the U visa application process, it is important for the crime victim to be cooperative with law enforcement. This is because the U visa in and of itself is in large part a reward for cooperating with law enforcement in the investigation of serious criminal activity. Furthermore, it is important to remember that the obligation to assist law enforcement does not end when law enforcement certification is signed. Rather, the alien’s continued cooperation with law enforcement is necessary in order for him or her to ultimately be eligible for adjustment to permanent resident status.

### Deportation Protection Key

#### Deportation protection is necessary for immigrant cooperation.

Ramey, 2018 (Sara – Executive Director @ the Migrant Center for Human Rights, “Eliminating the U Visa Cap Will Help Catch Criminals”, *The Hill*, February 14, <http://thehill.com/opinion/immigration/373808-eliminating-the-u-visa-cap-will-help-catch-criminals>, shae)

Congress also intended that the U visa serve a humanitarian purpose in “offering protection to victims of [serious crime] in keeping with the humanitarian interests of the United States”, including the ability to remain with U.S citizen children in the United States. I have worked with many women who have been victims of severe domestic violence and who, by being able to safely report to the local police, have managed to successfully separate themselves and their U.S. citizen children from their abusive partner. In some cases, where the abuser was not a U.S. citizen, their cooperation with law enforcement led not only to the prosecution and punishment of the criminal, but also to his deportation. Reporting to law enforcement has been made possible in San Antonio because some victims know that the San Antonio Police Department will not turn them in to immigration simply for reporting a crime (in other cities in the country this is not always true). Others do not know they can trust the police but feel they have no other option but to risk calling the police when their partner pulls a gun on them or tries to strangle them. But once they know that law enforcement will not automatically turn them over to immigration they are often more willing to cooperate with the investigation and/or prosecution. Any desire to limit the number of U visas available to victims of serious crime is substantially outweighed by the benefits of encouraging immigrants to report to the police and continue cooperating with law enforcement throughout any prosecution the prosecutor pursues. Congress can also expand the U visa to include protection for witnesses of crimes who participate in prosecutions. Currently there is an S-visa available for those who serve as witnesses in federal and state prosecutions but not in county and city prosecutions. An expanded U visa can address this gap.

# Fraud DA

## 1nc

#### The certification standard is the backbone of fraud prevention for the U Visa.

Mankin, 2017 (Imogene – JD Candidate @ UC-Berkeley, “Abuse-in(g) the System: How Accusations of U Visa Fraud and Brady Disclosure Perpetuate Further Violence Against Undocumented Victims of Domestic Violence”, 27 La Raza L.J. 40, shae)

One reason why DHS is not worried about policing U visa fraud may be out of trust in the certification requirement.97 Although it was not explicitly created as a fraud prevention safeguard, the certification serves to discourage fraudulent claims by imposing an additional burden of production on the applicant beyond the statutory requirements. The certification requires the applicant to prove that they filed a bona fide police report.98 It also requires the applicant to interface with an authority who must certify that the applicant was a victim of a qualifying crime, by any credible evidence (and not necessarily that the perpetrator is guilty beyond a reasonable doubt).99 In this process the applicant must reveal their undocumented status to a police officer, which under the Trump administration places them at risk of deportation.100 Although the standard of proof for the certification is low, the burden on the applicant is high, likely discouraging many inchoate temptations to fraud.

# Border K

#### Centering gender violence against migrant women within the United States depoliticizing the violence experience during migration and at the border.

Angulo-Pasel, 2017 (Carla – PhD candidate @ Wilfred Laurier University, “Navigating Risks Across Borders: The Lived Experiences of Central American Women Migrants”, http://scholars.wlu.ca/cgi/viewcontent.cgi?article=3134&context=etd)

A gender analysis can enhance critiques of the AoM by injecting an analysis that addresses the asymmetrical and often violent relationships among people based on power hierarchies. For instance, Scheel (2013b) highlights the minimal attention given to repressive, violent border regimes on migrants by AoM scholars. I would go further and suggest that not only do they inadequately address the violence of borders, but they fail to fully address the other forms of violence that women experience vis-à-vis their male counterparts, both while migrating within Mexico and before they depart. A gender focus expands the analytical scope of mobility by problematizing how violence affects people differently, which in turn affects their agency. Critical feminist scholars have important insights into agency and the violence caused by border controls. They do not focus on abstract figures, but on embodied, relational and situated bodies (Hyndman 2001; Silvey 2006). As such, violence and agency are intrinsically linked. The agency, or capacity to act, experienced by Central American women who choose and are able to migrate, is 94 affected by direct and indirect forms of violence – not only on the journey through Mexico, but in their country of origin before they depart. For example, recalling Alma’s story from the beginning of the article, she and her husband chose to migrate to the U.S. She exercised her agency to migrate. But at the same time, her choices, as a woman, were limited, in that her husband was a former member of the maras11 and, as a result, both were targeted by the criminal gang (Interview, 24 Oct. 2014, Mexico). Feminist scholars challenge the AoM approach by addressing how marginalized bodies, such as those of women migrants, experience violence through their embodied and gendered social differences (Hyndman 2001). Agency thus becomes relational. It may or may not be constrained, and as such, a woman exercises agency in various forms, but migration is ‘not simply an expression of individual agency or choice’ (Hyndman 2004, 169). Being the wife of a former maras member, as Alma was, places her in heightened danger, as the punishment for leaving the gang is death. She did not want to leave, but she had to (Interview, 24 Oct. 2014, Mexico). By applying a feminist analysis, the figure of the migrant becomes ‘embodied’: a body which has been socially constructed by interconnected power hierarchies and one’s (im)mobility depends on where the person is with respect to their ‘social location’ in life. According to Pessar and Mahler (2003, 816), people are born into a ‘social location continuum’ that is created through historical, socio-political factors, which ‘shape, discipline, and position people and the ways they think and act…irrespective of their own efforts.’ The relationships to structural factors that together shape the individual migrant’s unique experiences are lost when too much emphasis is placed on agency. Contextualizing and framing the analysis as relational and 11 The maras are prominent gangs found throughout Central America. The two rival mara gangs are MS13 and Calle 18. 95 dynamic may complicate the binary oppositions found in the AoM approach, but provides an understanding ‘within a larger context of gendered interactions and expectations between individuals and within families and institutions’ (Donato et al. 2006, 12). Unlike traditional state-centric approaches to migration, a feminist approach decentres the state to account for the security of the body, but does not dismiss the state entirely from consideration (Hyndman 2004b, 309). Although a relational reading of autonomy has been proposed by Scheel (2013b) within the context of the ‘technologisation of border controls’, it would also be valuable to nuance the reading of autonomy to instances where migration may not be a possibility or particular moments of (im)mobility on the journey within this empirical context. Another way that a feminist perspective can nuance these critiques is to show how intersectionality affects the mobility of women migrants from the NTCA. Drawing on feminist scholarship, Scheel (2013a) has proposed using the concept of ‘embodied encounters’ to account for the differences between how migrants experience the border based on their subjective positions. However, he does not explicitly use intersectionality and has not applied the concept of ‘embodied encounters’ to a specific empirical case. For example, discussing abstract ‘migrants’ disembodies women migrants by neglecting the ‘intersectional oppressions’ (Crenshaw 1991; Anzaldúa 1987; Ruiz-Aho 2011) that shape their socio-political realities. Originally defined by Crenshaw, intersectionality refers to ‘how experiences of women of color are frequently the product of intersecting patterns of racism and sexism’ (1991, 1243). Ruiz-Aho (2011), in her work on feminist border thought, uses this concept to discuss how women’s mobility is affected not only by being characterized as ‘illegal’ but also by other layers of marginalization such as 96 race, class and gender. As will be shown in detail below, the government’s border practices subordinate women migrants by legally categorizing them as ‘irregular’ or ‘unauthorized’. Yet, women not only experience violence and are subordinated by these legal categories, their (im)mobility is also affected by the boundaries of gender, race, class, and nationality, and often the associated stereotypes. A woman from Honduras while on the journey, for instance, is not only categorized as ‘unauthorized’ but, as Cruz Salazar (2011) suggests, is also, because of her perceived attractive looks, more likely a ‘roba marido’12 who is prone to work as a waitress, or worse, forced into prostitution. Accordingly, by not focusing on binaries, a feminist analysis adds to the understanding that the categories enacted by the border are only one among other boundaries that impact a woman’s migration experience. As Victoria, a social anthropologist who specializes in migration and works directly with women migrants through a Mexican faith-based organization, notes: ‘We are talking about women migrants with a high degree of vulnerability from many variables. … We observe that these vulnerabilities multiply, so if you are already an undocumented migrant and are also a woman, the other issues are added to these elements – you are poor, you are fleeing violence, etc. These are other elements of vulnerability … so you are already carrying all this baggage with you when transiting through this state’ (Interview, 23 Sept. 2014, Mexico). Lastly, women migrants may perceive escape and invisibility differently than men. The AoM perspective emphasizes the importance of the freedom of movement and the ‘right to escape’. It appears to portray the concept of escape as a positive practice – as a ‘joy’ – almost akin to an adventure. But not everyone has the power to move and/or the 12 In Mexico, a typical stereotype assigned to women from Honduras literally meaning ‘husband stealer’ 97 access to escape. The freedom of movement may be restricted due to structural violence and/or intersectional oppressions. A principal consideration for women migrants, therefore, is whether they even have access to ‘escape’. For many women, the freedom of mobility is restricted because various gender expectations and oppressions block their access. For example, women with dependent children, who are expected to be the primary providers and who may not have caregivers available for their children, as well as women who suffer from gender-based violence (GBV), and are unable to flee due to fear, are two cases where mobility may be limited for gendered reasons. In addition, the romanticized notion of clandestine migration uses invisibility as a significant strategy, the notion of being ‘imperceptible’. There are times when being invisible may be a viable strategy for women to avoid apprehension, but there are also other times when attempts to remain hidden in an environment that often preys on women only further exacerbates their risky position. Remembering Alma, she was attempting to pass by using very secluded routes, but she was almost raped as a result. Migration, in these instances, is not a romantic notion of escape. Women are not escaping violence because it continues to materialize along the way. Overall, a more constructive way to describe the life of Central American women may be to use Frye’s (2000) conceptual framework of oppression. In her analysis, Frye (2000, 11) examines how oppression, coming from the root word ‘press’, is used to immobilize. She explains that when something is pressed it is ‘caught between and among forces and barriers which are so related to each other that jointly they restrain, restrict or prevent the thing’s motion’. Using the metaphor of a cage, she illustrates how the bars of a cage may be viewed systematically as multiple barriers restricting a bird’s 98 access to the outside world. Similarly, those that are oppressed live a life that is akin to being caged in, where one’s life is ‘confined and shaped … and surrounded by a network of systematically related barriers [that] restrict or penalize motion in any direction’ (Ibid., 12). In the following sections, this article will examine this ‘cage’ of oppression in more detail by illustrating women’s experiences, and will show that scholars who adopt the AoM approach appear to make several taken-for-granted assumptions. These assumptions mainly revolve around the concept of ‘escape’. They assume 1) that everyone has the freedom to escape the regime of rights and representation; 2) that they have the ‘desire’ to leave these modes of representation and rights and trust in a ‘new social reality’; and 3) that becoming ‘imperceptible’ by strategies of ‘dis-identification’ is favourable when compared to remaining within the regimes of control. By using the analyses of embodiment and intersectionality, I illustrate that women migrants’ experiences are embedded in structures of violence. Thus, women migrants exercise their relational autonomous movements within these constraints.

# Domestic K

#### The liberation of women and children is not a western birthright. The aff’s refusal to identify the broader conditions of domestic abuse, rape, hypersexualization and marketization of women’s bodies within the United States only proves that they are indebted to the ideology of patriarchy.

Franks, 2003 (Mary Anne – Associate Professor of Law @ the University of Miami, “Obscene Undersides: Women and Evil between the Taliban and the United States”, *Hypatia* 18.1, shae)

Hegemonic ideologies must be interrogated constantly for their failures. It should never be forgotten that women's right to self-determination, their right [End Page 149] to an existence free of exploitation and violence, is not simply the birthright of Western civilization. The progressive situation that existed for women prior to the takeover of the Taliban was due, significantly, to the work of women within Afghanistan itself, women who may have benefited from the influence of certain Western ideas but who chose for themselves, within their own cultural and religious context, the existence they wished to have. As the Egyptian feminist Nawal el-Sadaawi pointed out in a recent lecture (2002), women's rights to an existence free of violence or oppression is not a Western invention, and it is patronizing and antifeminist to suggest that it is. RAWA, as mentioned before, has existed since the Soviet occupation, and its members have risked their lives to provide equal rights, education, and health care for women and girls for decades.¶ Good versus evil, us versus them rhetoric is predicated on a model of absolute difference. But this model is false. The Taliban should be seen as America's own specter, its obscene underside, for the Taliban's policies explicitly played out elements at work implicitly in the West. Perhaps this is made clearest by Sahar Saba's statement that "They are two sides of one coin, the Taliban and the Northern Alliance. 13 As the United States has aligned itself with the Northern Alliance, one may also say that by extension, the Taliban and the United States are two sides of the same coin.¶ On the surface, America and Afghanistan could not seem more different, especially as far as women's sexuality is concerned. After all, what more of an opposite could there be to society under the Taliban—where women were covered from head to toe, images of humans and animals were banned, and even the sound of female footsteps had to be muffled—than the United States, where sexually explicit images saturate public space, where women can wear what they choose, where strip clubs and brothels are commonplace? Where, in short, woman is everywhere displayed, completely, unashamedly, explicitly? But in both America and Afghanistan women's bodies are on the market; female flesh is bought and sold by men who reap enormous profits; "clients" become abusive and force prostitutes to perform acts against their will, beat them up, and leave without paying; teenage and pre-pubescent girls already sell themselves on the street; women are raped by the thousands each year; domestic violence is omnipresent and no one wants to talk about it. In the United States, these issues are not part of public consciousness; instead public space and discourse is saturated by images of compulsive consumerism that explicitly grounds itself in women's bodies and women's sexuality. In any given major U.S. city, one will confront hundreds of images of women in a day—but none of these will be images that seek to highlight the problems of violence and sexual exploitation that women so often face. Every New Yorker knows what the latest cover of Hustler looks like, or what the newest beauty product from Estée Lauder is. But the average New Yorker doesn't know the current statistics of rape and domestic violence in [End Page 150] his or her own city. In both Afghanistan and in the United States the fantasy of women reigns supreme; a constructed and artificial femininity is everywhere on display while the facts of violence and exploitation remain hidden.

#### Violence against women is part and parcel of the underbelly of American ideology. The aff’s attempt to locate such violence in the immigrant Other is the same logic of us vs. them which justifies imperialism abroad and depoliticizes domestic violence at home by nonimmigrants.

Franks, 2003 (Mary Anne – Associate Professor of Law @ the University of Miami, “Obscene Undersides: Women and Evil between the Taliban and the United States”, *Hypatia* 18.1, shae)

I did not anticipate in November 2000 that the United States and the Taliban would become embroiled in a direct conflict, that the Taliban would become the target of the wrath (instead of the indifference or even tacit support) of "the world's only superpower". 1 It seems to me that the affinities that bind the two together are all the more significant now, and that suggesting that the Taliban can be read as (to use psychoanalytic terminology) the "obscene superego underside" of the United States is all the more credible in light of recent events. This is reflected in a recent article by Slavoj Zizek, where he writes that nothing in the United States's conception of the "Other" is not already at work in the U.S. United States itself:¶ Every feature attributed to the Other is already present in the very heart of the U.S.: murderous fanaticism? There are today in the US itself more than two millions of the Rightist populist "fundamentalists" who also practice the terror of their own, legitimized by (their understanding of) Christianity. [ . . . ] what about the way Jerry Falwell and Pat Robertson reacted to the bombings, perceiving them as a sign that God lifted up its protection of the US because of the sinful lives of the Americans, putting the blame on hedonist materialism, liberalism, and rampant sexuality, and claiming that America got what it deserved? The fact that the very same condemnation of the "liberal" America as the one from the Muslim Other came from [End Page 136] the very heart of the Amerique profonde should give as (sic) to think. America as a safe haven? When a New Yorker commented on how, after the bombings, one can no longer walk safely on the city's streets, the irony of it was that, well before the bombings, the streets of New York were well-known for the dangers of being attacked or, at least, mugged (Zizek 2002).¶ One could add to this list of similarities a high incidence of sexual violence and a lucrative sex industry. Despite this, America explicitly renders the coordinates of the present "war against terrorism" as good against evil, free against oppressive. If it had not done so before, the United States has now distinctly asserted its position as the diametrical opposite of Taliban-controlled Afghanistan. America's patriotic self-identity allows for no similarity with the enemy; it is a rhetoric of absolute contrast, an archetypal civilization-versus-barbarism construction, intended to divide the world into opposing camps: "you are with us or against us."

# Iconic Victim K

#### The U visa itself is grounded in the perception of an abused, iconic victim. The aff only whitewashes domestic violence.

Balgamwalla, 2014 (Sabrina – J.D. American University Washington College of Law, Clinical Teaching Fellow, University of Baltimore School of Law, “Bride and Prejudice: How U.S. Immigration Law Discriminates Against Spousal Visa Holders”, *Berkeley Journal of Gender, Law & Justice* 29.1, shae)

Another problem inherent in the U visa regulations is that this relief is only available to individuals who suffer domestic violence or other qualifying crimes; this does not account for dynamics of dependency or psychological forms of domestic violence such as emotional or economic abuse. Like the VAWA self-petition, the U visa is a remedy grounded in the concept of victimhood—the petitioner is required to suffer harm in order to be eligible for relief. 198

#### The aff essentializes immigrant women.

Nanasi, 2017 (Natalie – Director at Legal Center for Victims of Crimes Against Women at SMU Law, 78 Ohio St. L.J. 733, Domestic Violence Asylum and the Perpetuation of the Victimization Narrative)

[\*752] It is certainly a laudable advancement that domestic violence claims are now officially recognized by the immigration court system, as for many years the ability of survivors of spousal or intimate partner abuse to obtain protection in the United States was significantly more limited and uncertain. However, although the situation has improved, it remains far from ideal. The prevailing social group formulations articulated by the DHS in Matter of L-R- ("Mexican women in domestic relationships who are unable to leave" and "Mexican women who are viewed as property by virtue of their positions within a domestic relationship") n121 as well as the similar "unable to leave" group accepted by the BIA in Matter of A-R-C-G-, n122 are deeply problematic. As will be discussed in detail in Part IV below, these particular social groups further the essentializing narrative of battered women as pitiable and helpless victims, and asylum law's adaption of Lenore Walker's victim-focused framework significantly limits the ability of a survivor of domestic violence to articulate or present a counternarrative of empowerment in her case.

#### The construction of the worthy victim authorizes widespread structural violence against everyone left outside the scope of the plan – turns the case.

Miller, 2015(Kathryn –PhD candidate in Political Science @ the University of Oregon, “VIOLENCE ON THE PERIPHERY: GENDER, MIGRATION, AND VIOLENCE AGAINST WOMEN IN THE US CONTEXT” dissertation, July, <https://scholarsbank.uoregon.edu/xmlui/bitstream/handle/1794/19356/Miller_oregon_0171A_11385.pdf?sequence=1>)

Proponents and opponents of the BIWPA’s provisions alike rely heavily on the category “innocent victims” in their statements of problem definition, and it serves a similar function for both. The category does the work of delineating who among immigrant survivors will be afforded state assistance and who will not. Helen Ingram and Anne Schneider (1993) might talk about this as the “social construction of target populations” (Ingram and Schneider 1993).44 In this case, I argue, the deployment of the category “innocent victim” does more than delineate who is deserving and who is undeserving of relief; it actually permits the violence being committed against those who fall outside the scope of the relief policy to continue. Political theorist Bonnie Honig (2001) posits a useful theoretical frame in her analysis of the relationship between democracy and foreignness. Honig argues that contemporary liberals often still rely on nationalist discourse and values when trying to defend immigration and immigrants, which sets up a “xenophilic embrace of foreigners” that actually feeds, rather than defeats xenophobia (Honig 2001, 1). It does this by setting up a juxtaposition between “good” and “bad” immigrants, in which the existence of one (the good) implies, and fuels hatred of the other (the bad). Unauthorized immigrants are almost always the “bad” foreigners, as they are presumed to be here both without “our” consent, and without consenting to “our” laws. She also points out that this popular mythology marginalizes, or flatly denies the other foundings based on conquest, slavery and genocide, none of which jibe well with the rhetoric of democratic and liberal consent (Honig 2001). We can see Honig’s theoretical frame mirrored in the discourse around women’s victimhood in the House hearing. In discussions about IPV, the category “innocent victim” operates in a way very much like Honig’s “good immigrant” or “good foreigner.” We again see liberal discourse aimed at advocating for and defending immigrant IPV survivors’ invoking notions of innocence and victimhood, and these notions become central justifications given for relief policies. The hearing testimonies show the careful deployment and creation of the “innocent victim” frame. The category is constructed in part through narratives, stories about survivors, offered by members of Congress that are shared in the hearing as a way of demonstrating the need for the BIWPA and justifying its existence. The following narrative, provided by Schakowsky, is illustrative: Marta was stabbed by her permanent resident spouse. He was arrested. Marta wanted to cooperate in the criminal prosecution of her spouse, but was afraid since her immigration status was dependent on him maintaining his legal status. This decision proved deadly as Marta was later killed by her husband. He was subsequently convicted of domestic violence. Immigration and Naturalization Service is now initiating deportation proceedings against her spouse (BIWPA Hearing 2000, 77). The narratives are about innocent victims—good immigrants who are clearly deserving of state assistance and incorporation into the political community. Importantly, these narratives fill the category of the “innocent victim” with certain traits. The innocent victim is subject to horrific and brutal physical violence; she is filled with fear; she seeks state protection from this violence; she cooperates with law enforcement; there is no mention of her using violence against her abuser in self-defense; and she fits unproblematically into heteronormative family structures (married or monogamous, opposite-sex couple). Correspondingly, these narratives paint a very specific picture of the state. The state is a protector of innocent victims, it successfully prosecutes abusers, it enforces restraining orders, and so on. A major problem, of course, is that this categorical frame excludes many IPV survivors. It operates as a category of exclusion, much as the “perfect victim” frame does in a broader rape culture. IPV does not always take the form of brutal (and/or visible) physical violence. IPV usually does not require a hospital visit or stitches—there are many forms of less visible or invisible physical violence, verbal, emotional, and psychological abuses, financial abuse, and isolation. IPV survivors often do not seek state protection, or are not willing to cooperate in prosecution. And IPV happens in nonheternormative relationships. As with Honig’s “good foreigner,” the “innocent victim” frame requires an opposite—a survivor of IPV who is conceptualized as something other than innocent. These are women against whom violence does not warrant state intervention. However, it is not claimed that violence is not being committed against them. Instead, the innocent victim frame props up, and is propped up by a corresponding narrative about unwanted unauthorized immigrants. In this narrative, the violent crimes committed against “bad” immigrants are rendered either implicitly acceptable or invisible. In the face of the subcommittee’s repeated acknowledgement of the extent and severity of the problem, there is a sudden discursive shift when they talk about whether and how to limit the scope of relief policy. There are two underlying logics—accepted by proponents and opponents—for limiting relief. First, to broaden the scale or scope of relief policies would lead to fraud—abuses of the system—which would permit otherwise “undeserving” immigrants to access relief. Second, such a move would result in a “flood” of new, unwanted, and undesirable immigrants. As discussed previously, these categories are delineated and offered as justification for policy expansion and policy limits in the context of the participants full awareness and acknowledgment of the severity and extent of the problem as well as their self-reflection regarding the role of restrictive immigration policy in IPV against immigrants. In the section that follows I discuss the creation and deployment of these categories, and how they operate as justificatory frames.

#### Prioritize epistemology first – voting negative challenges the discursive climate that constructs survivors of gender violence as ‘worthy victims’ and galvanizes a broader activist challenge to all gender violence

Nayak, 2015(Meghana –Associate Professor of Political Science @ Pace University, Who Is Worthy of Protection?: Gender-Based Asylum and U.S. Immigration Politics, p. 173-174)

Knowledge claims are central to “international relations” as a discipline and as an arena of decisions and interactions. What is “known” about countries is pivotal in decisions about who gets bombed, who gets aid, who is an enemy, an ally, the Other. And those interactions and encounters, in turn, shape, delimit, and construct knowledge claims. The task ahead is to figure out how to participate in creating “responsible knowledge,” which would entail thinking about what is done with knowledge and to whom, identifying whose voices are privileged in knowledge production, and studying the gaps and silences in authoritative accounts about the world.18 Now that we have seen more vividly the effects of what is claimed about “worthy victims,” we have to more seriously address the ideational component of the global, national, and local social structures that can shape, but also be shaped by, state and nonstate actions and decisions. I turn next to specific knowledge claims and correlated strategies. FEMINISTS AS THE PRIMARY ADVOCATES FOR VICTIMS OF GENDER VIOLENCE A key task for feminists of any sensibility or theoretical commitment is to name, address, and challenge gender violence. As I have demonstrated throughout the book, there is much at stake in the politics of naming who counts as a victim of gender violence. The feminist IR, postcolonial feminist IR, and critical IR scholars that influenced my framework have all called for the recasting of categories that we take for granted: state/ nonstate, victim/perpetrator, inside/outside, good/bad. In the case of gender-based asylum, since gender is not a fixed category, asylum advocates and asylum adjudicators are already stretching, strategizing, and playing with gender and what gender violence means in order to help clients or to restrict the entry of non-citizens. How do we get better at understanding gender violence and offering better strategies for prevention and redress? I push for more effective, collaborative, intersectional feminist activism around gender violence. Much of feminist activism focuses either on very specific cases or very broadly on gender violence. However, my disaggregation of gender violence and rethinking of comparisons between types of violence should prompt feminist activists to think more carefully about how they categorize, connect, and separate out various types of violence and victims. The worthy victim frame results in victim-blaming and moralizing about the choices that survivors of violence make. This is precisely what is going on when worthy victim classifications emerge, when survivors of violence are expected to react and even be in certain ways, and when their experiences are used in the service of political agendas. Feminist and queer activists, many of whom are survivors of violence, and feminist and queer scholars have historically participated in challenging the appropriation of victims’ stories. At the same time, they/we too are complicit with speaking for survivors of violence. With a framework, discussed in chapter 1, that politicizes not only gender violence but also the responses to gender violence, we are better able to ask ourselves about the political choices we make when we theorize about the victims and survivors of gender violence. For example, in research or activism, how are victims/survivors of violence constructed? How do we construct ourselves in relationship with how we talk about victims? How do representations of victims change if those participating in activism or research are also survivors of violence? But in challenging the problematic victim frames, I want to go further than offering self-reflexive critique. I also call for political work in changing and shifting legal and political concepts that underpin problematic understandings of and responses to gender violence. The legal and juridical categories can make a difference in how asylum seekers are treated but also in the accepted discourses that find traction in how a variety of political players aid or address survivors of violence. In other words, I want to change the discursive climate from which the worthy victim frames emerge. Challenging the discursive climate will also be crucial for rethinking how undocumented immigrants are thought of as perpetually unworthy.

#### Turns the case – U visa eligibility reinforces gender norms that contribute to intimate partner violence in the first place.

Chacon, 2013(Jennifer M. – Professor of Law, @ the UC-Irvine School of Law, “Feminists at the Border: Militarism in the Work of Ann Scales”, 91 Denv. U. L. Rev. 85)

VAWA self-petitioning and U visa eligibility are helpful to individual immigrants, but they are band-aids on structural problems, and they in turn reinforce the gender assumptions and norms that lead to the underlying problems of partner dependency and exploitation in the first place. They leave dependent spouses and children in a supplicant position not faced by the primary visa holder-needing to establish abuse in order to be allowed to regularize their immigration status. In the case of U visas, this requires cooperation with law enforcement, 9 2 which can be daunting to individuals with little knowledge of the U.S. legal system. And it requires law enforcement to certify the helpfulness of applicants, which can be a dicey proposition when law enforcement is undereducated or simply hostile to such claims.93 Immigrant women are critical contributors to the U.S. economy. Some of these women are themselves the recipients of visas as highly skilled immigrant workers. Sometimes, women are able to accompany partners with visas that also allow them to work in the formal economy, and they do so. Some of them are entrepreneurs and small business owners who have found creative and economy-boosting work-arounds to prohibitions on employment.94 Many women work under the table as home elder-care providers, nannies, and maids.95 Almost all of them do work within their households. With the exception of the primary visa holders, however, the law reduces the complexity and contribution of these immigrant women into three categories: (1) the dependent beneficiary of a spouse's employment-based immigrant or nonimmigrant visa who has no independent labor significance; (2) the supplicant of the state who seeks to terminate the dependency on the primary visa holder by providing law enforcement assistance to the state; and (3) the "illegal alien" worker who is outside the law. In none of these categories is the woman migrant a prototypically "desirable" neoliberal actor. Nor are the legal limits on economic and family migration the only ways that immigration policy facilitates gender stereotypes. Scales's analysis of the Nguyen case highlights how citizenship requirements that impose higher barriers to the children of unmarried U.S. citizen men as compared to the children of unmarried U.S. citizen women both reflect and institutionalize sex and gender stereotyping around parenthood.96 Scholars have also written about how the public-private distinction has resulted in the favoring of male asylum applicants over female applicants who suffer violence at the hands of nonstate actors. 97 There are other examples, but the above discussion suffices to sketch out the ways that neutral laws result in a situation where, generally speaking, women and men often enter the United States as immigrants on very different legal terms. Reform proposals have tended to ignore the significance of this fact and have not made sex and gender equality an objective of immigration reform legislation. Ann Scales's work helps to illuminate how these policy choices and the constitutional doctrines that make them possible-are rooted in militarism. Catherine Dauvergne has pointed out that there is a "widely shared assumption . . . that sovereign nations 'are morally justified in closing their borders, subject to exceptions of their choosing."' 9 In the United States, this justification has translated into the Court's acknowledgement of Congress's plenary power to define who can come to and who can stay in the United States.99 This power supersedes constitutional protections on the rights of noncitizens and citizens, including their First Amendment rights, their right to equal treatment under the law, and their right to due process. The courts do little to scrutinize these congressional choices because immigration powers are viewed as rooted in national security. This is true whether or not national security is actually implicated by the discriminatory laws. Militarism trumps equality and justifies replicating prevailing hierarchies in immigration law. Once the inequalities that undergird the current immigration admission system are exposed, it becomes easier to see the damage that these inequalities wreak on immigration policy more broadly. When the woman migrant is frequently placed by law into the categories of a dependent, a supplicant, or a lawbreaker, it is not surprising that lawmakers are not actively seeking to improve avenues of legal admission to women workers. The structural inequalities embedded in immigration law ultimately work to reinforce the recurring trope of migrant women as state dependents who seek to anchor themselves to the country through pregnancy and childbirth. This in turn, provides fodder for arguments in favor of limiting channels of immigration and also of eliminating birthright citizenship.'\* These distorted understandings of women migrants that emerge from policy choices also result in policy choices purportedly undertaken to assist victimized migrant women that actually worsen the plight of these women. I have written elsewhere about how domestic strategies designed to combat human trafficking have perversely increased the vulnerability of migrants because anti-trafficking is used to justify a host of militarized immigration enforcement strategies that make migrant crossings more dangerous and costly, drive unauthorized migrant workers further underground, and fuel a myth of migrant criminality that further justifies militarization of border enforcement in a tragic feedback loop.'0' These policies frequently exacerbate the sexual exploitation of and violence against men, women, and children both as they migrate and in the workplace. I see our approach to human trafficking as a further reflection of our nation's outsized fear of dependent, non-contributory, and criminal immigrants. This world view has resulted not just in self-defeating anti-trafficking approaches, but in a sweeping militarization of immigration enforcement.

# Policy Focus K

#### Status quo discourses of domestic violence are overly policy-oriented and are dominated by masculine perspectives – silences victims and forecloses the possibility of empathetic dialogue

Oswald 18 (Jessica, Bachelor of Arts, thesis presented to the Faculty of the Graduate School of Stephen F. Austin State University In Partial Fulfillment Of the Requirements For the Degree of Masters of Interdisciplinary Studies STEPEHEN F. AUSTIN STATE UNIVERSITY, ”Domestic Violence and Women: A Critical Analysis of US Help & Support Websites and Traditional News Media Representation”, Stephen F. Austin State University Electronic Theses and Dissertations, May 2018, https://scholarworks.sfasu.edu/cgi/viewcontent.cgi?article=1194&context=etds)

CHAPTER 5 Discussion The data analysis revealed four primary areas of discussion overall. They appear under four subsections titled, embedded discursive sexism, White makes the most noise, domestic violence against women at the mercy of politics, and peripheral issues distracting from narratives of domestic violence. These four areas of discussion encompass a wholistic understanding of what the author has uncovered through the analysis of the data. The ensuing discussion, thus, weaves together critical issues emerging from this analysis with what has already been established in the literature review section and what could be further possibilities in the areas of communicating domestic violence in the media, policies related to domestic violence, as well as, implications for social work organizations. Embedded Discursive Sexism The websites and the NYT articles both had predominantly strong elements associated with male orientation, concerns, and perspectives. The literature review pointed towards how domestic violence is prevalent because there is a definite culture of women’s oppression in our society (hooks, 2000). In alignment with this feminist understanding of domestic violence, the data in this inquiry also points towards representation of this issue in a way that does not entirely express the female victims’ 50 perspective. Ultimately, it could be relatable that this is a more subtle and discursive form of oppression that is hard to distinguish when one were to view these websites and articles at a first glance. Based on hooks’ (2000) groundbreaking work, a key tenet of feminism that helps fight male oppression is the fight against sexism. In the data analysis, sexism is present in ways that are different from how it is expressed in policies and physical spaces around us. In the data, it is expressed in the form of female perspectives being omitted, victims’ statements being absent, lack of female visuals, lack of easy access to victim help resources, lack of female authorship for articles about domestic violence, etc. Female domestic violence victims viewing these websites will notice a lack **of empathy, their own voice**, and visual representations of themselves, among other things. Noticeably, in the websites the various subsections were not only lacking design, visual, language, orientation directed towards female victims, they were specifically lacking any racial or ethnic representation. Similarly, if they were to read the articles, they will be struck by how dispassionate the articles are, lacking narratives from victims, and an overwhelming focus on and critique of politics. As a result, **female victims are less likely to be assured of, comforted, and empowered to seek help** about their situation. The data suggests that women are objects of discussion, policy making, and pity, as well as represented as people who need protection. Women do not seem to be included in the conversation about solution for domestic violence on an equal footing. The literature review suggests that feminists who identify themselves as Christians understood male oppression in terms of wage imbalance, equal power in the 51 household, distribution of parenting responsibility, etc. Based on the literature, these concerns were attributed in the feminist movement to middle class, white women. These concerns are mainly overtly absent in the data analyzed for this inquiry. There is no direct mention of any religious affiliation within the websites or the articles analyzed. However, the middle class, white ideology is still very much present in the data. It just does not come through as an overtly religious representation. The websites and the articles overall have a severe lack of representation from lower socioeconomic strata or more diverse populations in the country. Another important aspect of this discussion is that the websites and the articles seem to be countering actions by male perpetrators. There is very little space and time spent on providing a solution to domestic violence. Ideally, there needs to be equal or more space, time and resources spent in curbing domestic violence in the first place. By approaching the website content as well as the newspaper reporting from the point when domestic violence has already occurred, the data suggests that there is an underlying gendered acceptance of domestic violence as part and parcel of our daily lives. Specifically, during the Trump political campaign, reports of his overt and covert sexism and derisive attitude towards women were taken-for-granted, not adequately criticized, and even supported by evangelical Christians. This created an environment in which approach to domestic violence **was more of a reaction rather than a step towards solution**. We can see this trend being emulated in the data. 52 If the male members of our society are already significantly less likely to be harmed in realms of domestic violence, opinions, policies and positions generated from the male-oriented perspective then strongly reifies the power of sexism. Instead of focusing on the female victims and what they need, the focus is on **what policies the male-majority administration is undertaking,** how male journalists are reporting on domestic violence, and how male-dominated institutions discuss, work through, and handle issues of domestic violence. hooks (2000) suggests that we think of feminism as a cause for all members of our society. If we approach media representation of domestic violence against women from this perspective, all members of society should be working to end domestic violence. Male members are certainly a very important part of the conversation and solution. In that respect, if the websites are created by men or if male journalists are reporting on these issues, it is an indicator of an inclusive approach to the issue. However, the data analysis for this inquiry suggests that, in most cases, the media representation is exclusively or most of the time being undertaken by male members. This is a gross underrepresentation of the female voice that should be at the core of issue. When women are left out of the conversation regarding domestic violence, purposefully or not, it promotes a culture of male power creating more distance between male and female members of society. Feminism works as a counter measure to the ideology of male domination in our society. A feminist approach to representing domestic violence lends itself to storytelling and listening to the accounts of what female victims have experienced, something that is totally lacking in our data. Sensitive topics involving 53 emotional and psychological hurt and pain, needs to find space in the media representation of national and regional administrations, as well as, national news media. There are many reasons that women do not notify authorities of domestic violence. These include cultural, familial, or other personal beliefs. If the media representation also focuses on more male domination and viewpoint, it becomes more difficult for female victims to relate to such content. Thus, the data demonstrates that a male-oriented representation of domestic violence results in **subtle maintenance of status quo in society with regard to male-female power imbalance** within the backdrop of the 2016 Trump political campaign.

# Politics

## GOP Opposition

#### GOP hates the plan.

Mankin, 2017 (Imogene – JD Candidate @ UC-Berkeley, “Abuse-in(g) the System: How Accusations of U Visa Fraud and Brady Disclosure Perpetuate Further Violence Against Undocumented Victims of Domestic Violence”, 27 La Raza L.J. 40, shae)

Many immigration advocates and experts have weighed in on the problems with the U visa certification and have proposed potential solutions. I will briefly summarize two of these proposed solutions and then endorse a third solution: an advocate-facilitated move away from prosecutor and law enforcement certifications altogether. Veteran VAWA policy advocate Leslye Orloff suggests doing away entirely with the U visa certification requirement to allow more victims to access the U visa.176 Removing the U visa certification requirement would also help to remedy the coercive power dynamic between prosecutors and victims.177 However, this proposal seems somewhat unrealistic in the current political climate, with conservative politicians believing there is fraud, even with the certification requirement.