

Immigrants face long delays for visas designed to help crime victims

By Nancy Lofholm *The Denver Post* *The Denver Post*

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Dyah Widyati is a rape victim. As a result, she also has become the victim of an overloaded and backlogged visa system created to help immigrants who are victims of crimes.

Immigrants such as Widyati who are applying for the humanitarian U visas created by the 2000 Victims of Trafficking and Violence Protection Act have to wait a year or more for their visas to be approved. During that time, they are in a no-status limbo.

They are without authorization to work or attend college. They can't leave the country without jeopardizing their right to return. They don't qualify for any benefits to help them get through a lengthy waiting time without paychecks.

U visa applications have jumped from 6,835 in federal fiscal year 2009 to 24,768 in 2012, leaving U.S. Citizenship and Immigration Services scrambling to catch up with the growing backlog. Compounding the problem is the cap of 10,000 of these visas being available annually. The situation is leaving victims such as Widyati in dire straits.

"It's like victimization over and over again. We are in fear of losing everything," said Widyati, who came to the United States from Southeast Asia legally in 2009 on a student visa and currently lives in Denver.

Widyati, 32, was living near Baltimore and working on her master's degree in women's studies when a stranger entered her apartment and raped her.

The victims' program Widyati went to for counseling persuaded her to apply for the U visa. It would keep her in the country to help with prosecution if the perpetrator were caught. Widyati's attacker has not been found.

Widyati moved to Denver to attend the University of Colorado Denver and finish her degree. She married another immigrant who was in the country on a student visa.

She filed for her U visa in February after receiving necessary law enforcement agency certification that she was the victim of a crime. She included her husband in the process because family members of victims are permitted to be covered under the U visa regulations.

She thought the approval would take four months and her husband would then be able to go to work at a job he was recruited for at a Denver financial firm. His job is on hold because the visa delay means he also has no status and thus no permission to work.

"The idea of U visas is really, really great. It's just that it's a very difficult process," said Bryon Large, a Denver immigration attorney and chairman-elect of the Denver chapter of the American Immigration Lawyers Association.

U visas have suffered delays since they were created as part of the victims' act in 2000. Regulations defining how the visas would be processed and granted weren't issued until 2007.

A Citizenship and Immigration Services Ombudsman study of the visa program in 2009 found that delays in getting the program up and running were "placing victims in a prolonged period of uncertainty."

The number of U visa applications increasing since then is viewed as a milestone of success in spite of the problems it creates for applicants.

Kelly Ryan, the Denver immigration attorney representing Widyati, said it shows there is more recognition of domestic violence in the immigrant population, and more immigrants are getting past their fears of reporting crimes.

"But it can put applicants in an awful bind in all aspects of life," she said.

Timothy Counts, a spokesman for Citizenship and Immigration Services, said qualified applicants for the visas are waiting for a year or longer now to have their cases processed and to receive approval for work authorization. Applications filed April 23, 2012, are just now being processed.

"As a result of the current processing time, USCIS is exploring options for getting work authorization cards into the hands of qualified applicants more quickly," Counts said.

He said applications are processed in the order in which they are received. But immigrants who are in detention or deportation proceedings can ask to have their cases expedited. That means victims such as Widyati, who are not in the country illegally and have not committed crimes, have their cases delayed further.

Large said some of those applying for U visas who were in the country illegally when they applied survive by working jobs without authorization.

Widyati said that is too risky for her and her husband because so far they have done everything legally. They don't want to jeopardize their ability to stay in the United States.

Widyati has been to relief agencies seeking assistance to survive until she can go to work, but she said because of her "no-status status" she has been turned down for everything but food aid.

She said she and her husband fear they can't survive more than another month before they might have to give up and return to their home country in Southeast Asia.

A visit to her home country is something she wishes she could do now on an authorized basis. Her mother is suffering from liver cancer, Widyati said, and Widyati is unable to be with her.

Widyati has spent her waiting time writing letters to more than a dozen senators, congressional representatives and USCIS officials. She has written to Vice President Joe Biden and to first lady Michelle Obama.

She has received some replies of sympathy for her plight but no fixes.

"It's very stressful," she said. "I am trying to do everything right, and basically I am in this devilish circle."

Nancy Lofholm: 970-256-1957, nlofholm@denverpost.com or twitter.com/nlofholm

U visa applications

Fiscal year, victim applications, approved, denied

2009, 6,835, 5,825, 688

2010, 10,742, 10,073, 4,347

2011, 16,768, 10,088, 2,929

2012, 24,768, 10,122, 2,866

2013*, 8,787, 3,565, 635

(*oct. 2012 - jan. 2013)

Source: uscis