

Separated couple awaits immigration law change

By CRISTINA SILVA | Associated Press

Agustin Portillo checks the oil in his wife's car, stores her luggage in her trunk and then drives her from his tiny apartment in Tijuana to the United States border entry port. It's not a long trip, but Ana Portillo is afraid to maneuver the streets of this violent city by herself.

They wait patiently in the hours-long security line, holding hands and stealing chaste kisses. A romantic ballad comes on the car radio, and Agustin faintly serenades his longtime bride. Ana tries not to notice when he tears up.

When they are near the checkpoint, he kisses her again before stepping out of the car. This is as far as he can go. After 20 years of living with his Ana in Los Angeles, he is stuck on the Mexican side of the fence.

Many assume an illegal immigrant married to a U.S. citizen easily qualifies for a "green card" or legal U.S. residency. But Ana, an immigrant from El Salvador who is a U.S. citizen, and Agustin, a Mexican who lived illegally in the United States for decades, know the truth. They can live together in one of the poor, violent nations they fled, or they can live like this, divided.

The federal law that prohibits many illegal immigrants from living in the United States with their citizen spouses has been criticized by President Barack Obama, who recently ordered the State Department to allow some families to stay together. But it's unclear when that will happen or how many families it will help.

Agustin, 49, and Ana, 60, have been separated by the border for nearly two years. She misses his companionship and how he cared for her when she was sick. He longs to seek her counsel when something troubles him, to feel her warmth as they sleep

"Without her, I am practically nothing," he said.

He lives alone in Tijuana. She lives in a small Los Angeles apartment with her younger son, an illegal immigrant, and his family. Her other child, a legal resident, lives in Las Vegas. Her three grandchildren were all born in the United States.

Every two weeks, she makes the 300-mile roundtrip from Los Angeles to Agustin's one-bedroom apartment in central Tijuana. There is no fridge, no sofa, no oven. He sleeps on an air mattress and stores his food in coolers filled with ice.

On a recent visit, she wore a revealing shirt for her husband. Her hair had been straightened and dyed black. His hair was gray, but his arms looked strong from frequent workouts to relieve his frustrations.

He sobbed as they embraced.

Agustin wants to be with his family, but not in Tijuana, where the U.S. State Department warns of narcotics-related violence.

It's a city where border crossers pray at the centuries-old Roman Catholic church for safe passage. In a bustling street, amid churro vendors and the painted donkey of this infamous metropolis, dour-looking men and women clutch dirty duffel bags. They are "Los Indocumentados," or the undocumented, people who haven't made it past the border.

"I am in the same position as them, waiting to cross to a better life and unable to do so," Agustin said as he and Ana stood near the crowded church on a recent afternoon.

Inside, they knelt and prayed.

They were both illegal immigrants living in the same Los Angeles apartment complex when they met at a birthday party in 1988.

He traveled with her to El Salvador to help bring her two sons from a previous relationship to California. They were chased by border agents and threatened by highway robbers and drug dealers. The brutality of the trip cemented the bonds of their new family once they made it to the United States.

She took care of the children of affluent doctors while he sold cars or sewed clothes at a factory.

Ana and her sons soon qualified for visas under a temporary amnesty program that helped foreigners whose homelands were deemed unsafe. They could work and live in the U.S., but not travel abroad. The amnesty did not apply to Agustin.

Ana's older son graduated from high school with high marks, but couldn't afford to go to college because his non-resident status disqualified him from federal aid. His younger brother asked Ana and Agustin to take him out of advanced classes. What was the point, he said, if he couldn't go to college? It was one of many times Ana cried for her sons.

She obtained a permanent visa in 2001 and later became a U.S. citizen. Her older son in Las Vegas also sought a permanent visa, and his brother promised to do the same. Ana was hopeful everyone in her family would soon be free from "that fear that they will deport you at any time," she said.

But she was quickly reminded of how the law works.

Her nephew, a U.S. citizen, talked her younger son into going to Tijuana for his 21st birthday, reasoning that border officials, hearing him speak English, would think he was American. But when her son tried to return, the border officer wanted more than to hear him speak. His

temporary visa didn't allow him re-entry and he no longer qualified for a permanent visa because he was caught trying to enter the country illegally.

A coyote, or an immigrant smuggler, was paid to fetch Ana's son, returning him to California.

Before 1996, illegal immigrants living in the United States could easily obtain visas or a "green card" if their spouse or parents were U.S. citizens or legal residents. But critics complained, and that year President Bill Clinton signed a law that banned illegal immigrants seeking visas from returning to the United States for up to 10 years.

Under federal law, visa applicants must return to their native country for a State Department interview. Many learn that they are banned during that meeting, when they are already outside the U.S. Those who are caught crossing the border or living in the United States after being deported can be banned for life.

Families can seek an "extreme hardship" waiver to avoid the ban. But the law does not define extreme hardship and case law suggests the U.S. government does not consider factors such as children or the potential loss to family income.

Under Obama's proposed overhaul, some immigrants would be able to seek a hardship waiver before departing to their native country for a visa interview.

Obama's plan doesn't need to be approved by Congress. Some Republicans say he is fishing for Hispanic votes ahead of the November election.

As it is, some 3.4 million illegal immigrants would likely qualify for visas because of their spouses or parents, but don't apply because they would be subject to the multi-year ban, said Muzaffar Chishti, an immigration lawyer with the Migration Policy Institute in New York.

Critics say illegal immigrants should face tough penalties. Some support a permanent ban for anyone living in the country illegally.

"When I hear that the United States is tearing apart families, I really have a problem with that, because people have a choice," said David Seminara, a former State Department consular officer who opposes the hardship waivers in most cases.

Agustin's troubles started after he developed a hernia. He worried he could die without again seeing his older sisters in southern Mexico. He begged Ana to move back with him.

But she told him she couldn't earn what she does as a Los Angeles nanny, \$500 a week. Mexico's per capita income is roughly one-third that, according to government figures.

So Agustin returned to his sisters. He was confident he could cross the border again whenever he wanted, as he had done when younger. After three months, he was ready to return to Los

Angeles. But the border agents laughed at him when he tried to present a visa belonging to another man.

"Brother, you must think I'm an idiot," one agent said.

Agustin hired a coyote to take him into southern Arizona. They were almost there when a Border Patrol helicopter roared into the night sky. Agustin crawled into a ditch obscured by rocks. When the sound of the helicopter faded, he was alone and lost.

For hours, Agustin wandered through the desert as vultures circled. He thought he was dying of thirst when he came to a highway and a passing motorist offered him a ride to Tijuana. Since then, he's been too afraid to try again. Fear has also kept him from applying for legal entry.

"To see your family go and you can't go with them, it breaks your heart," he said.

And so he remains in Tijuana, where the border looms with thermal imaging surveillance cameras, patrolling aircraft and rows of strategically-placed walls, fences and watchtowers. Graffiti in English and Spanish covers the steel and concrete.

"This wall will not save your economy," reads one message.

"No wall can contain my heart," reads another.

The fence ends at the Pacific beach in western Tijuana. At sunset, with the orange bulb of the sun falling into the waves, the scene is almost romantic.

But not for Agustin and Ana, who read the angry messages as they walked arm-in-arm along the wall.

"This is where dreams die," Agustin said.

When he first began driving Ana to the border checkpoint at the end of their visits, Agustin would cry openly as she tried to console him in the hectic maze of taco stands, bass-thumping cars and makeshift tourist shops selling Virgin Mary statues.

"He used to tell me, 'If only you could put me in your luggage,'" Ana recalled.

These days, he tries to more closely guard his emotions. He knows his tears upset her.

On her most recent trip, after Agustin left the car to walk back to his life in Tijuana, Ana handed her U.S. passport to a burly border officer. He cooed to her: You are so pretty. Do you have a boyfriend? He doesn't have papers, right?

"My husband," Ana replied.

The officer waved her forward.

<http://www.sanluisobispo.com/2012/03/05/1976042/separated-couple-awaits-immigration.html>