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Staying Put When Visas Expire

About 3.6 million people who arrived in the U.S. legally don't leave when they should. They are targeted as the nation debates its immigration policy.

May 22, 2006 | Anna Gorman | Times Staff Writer

Alhaji Kamara, 28, didn't enter the United States by hiding in the trunk of a car or trekking through the desert.

The Sierra Leone native arrived legally in 1995 the way millions do every year, with a tourist visa. He later obtained a student visa and was eventually granted temporary protected status because of civil war in his West African homeland.

But when his legal status ended in 2002, Kamara decided to stay put. He said he didn't feel safe returning home.

"There was nowhere to go back to," the Orange County resident said. "I decided to follow my education here."

Kamara, an illegal immigrant now trying to get a green card, is one of an estimated 3.6 million people living in the U.S. who have overstayed or otherwise violated the terms of their visas, according to the Department of Homeland Security's inspector general's office. They account for more than a quarter of the roughly 12 million illegal immigrants in the country.

Many who overstay their visas eventually apply for green cards or political asylum and then spend years caught up in the immigration system. Others simply disappear with little fear of being arrested or deported because rounding up visa violators has not been a high priority.

But that is changing at a time of increasingly heated national debate over illegal immigration. The Department of Homeland Security announced last month that 165,000 visa violations occur annually and that tracking those cases is part of a new enforcement crackdown.

Last year, Immigration and Customs Enforcement agents arrested more than 8,000 visa violators nationwide. In Los Angeles, agents apprehended more than 70 violators in the last 18 months.

Last week, five employees of the Los Angeles Department of Water and Power were arrested after ICE determined they were unauthorized to work in the U.S. Three others were taken into custody earlier. All but one had entered the country legally, including at least two with student and visitor visas, authorities said.

"You can't have 360-degree border security if you don't [target] who is already here," said Marc Raimondi, a spokesman for Immigration and Customs Enforcement. Visa violators are a "significant portion of the illegal population and as such will be a viable target for interior enforcement."

But anti-illegal immigration activists said the government isn't doing enough to go after violators. They see no difference between "overstays" and those who crossed the border illegally.

"Both of them have broken our immigration laws," said Rosemary Jenks of NumbersUSA, a nonprofit organization that favors a crackdown on illegal immigration. "Both of them have taken advantage of loopholes."

Some foreign nationals living in Los Angeles acknowledge that they used the temporary visa system as their gateway into the United States.

"This is the way to come to America," said Pakistani immigrant Sarfraz Ahmad, who arrived on a student visa in 2004 but said he didn't attend school. Ahmad, a convenience store cashier, said his visa expired in August but that he has no plans to return home. He is seeking asylum because he fears retribution after failing to abide by an arranged marriage.

Another violator, Ramon Ramirez of Honduras, used his student visa to take classes but didn't leave the country when it expired in 1991. He said he never worried about being deported.

"I just didn't feel scared," said Ramirez, who has received temporary legal status granted to immigrants from countries affected by natural disaster or armed conflict. "I didn't feel immigration was going to come and look for me."

Foreigners can travel to the United States on several types of visas, including tourist, work, student and religious visas, with varying time restrictions. Most visitors from certain countries, including much of Western Europe, don't require a visa to travel in the U.S. for up to 90 days because of reciprocal agreements among countries.

In 2004, there were nearly 30.8 million nonimmigrant visas issued. They included visas for about 5.3 million temporary workers and business travelers, 22.8 million tourists and 620,000 students, according to the U.S. Citizenship and Immigration Services.

Getting a temporary visa can be difficult. Foreigners must show strong family and financial ties to their native countries to prove that they will return home when their visas expire, authorities said. They usually pay \$100 to apply and an assortment of fees.

Depending on an individual's circumstances, the screening process can take anywhere from one day to several months. For example, it can be harder to obtain a visa if the applicant is from a country, like North Korea, that does not have diplomatic relations with the U.S. Applicants with criminal records could be barred altogether.

"We are trying very hard to weed out the people who are coming here to stay," said Marie Sebrechts, a spokeswoman for U.S. Citizenship and Immigration Services.

A Senate proposal under debate would expand the number of annual visas, including an additional 325,000 for temporary workers. But advocates for tougher immigration laws say Congress shouldn't consider issuing more visas when there are already so many violations.

"The fact that the Senate bill calls for even more opportunities for visa overstays is a sign of how frivolous its approach to enforcement is," said Mark Krikorian, executive director of the conservative Center for Immigration Studies.

Following the Sept. 11 terrorist attacks, the criteria for issuing visas did not change significantly, but applicants were required to submit more detailed autobiographical material and were subjected to more extensive security checks, which temporarily slowed the process, Sebrechts said. The federal government also began focusing more attention on visa violators.

One of the terrorist hijackers, Saudi native Hani Hanjour, entered the United States on a visa to study at a language school in Oakland but never showed up for classes, officials said.

In 2002, the Department of Homeland Security developed a database to monitor exchange visitors and foreign students. A special Immigration and Customs Enforcement unit was also created specifically to go after visa violators.

But the ICE unit has primarily focused on individuals who pose a national security risk. As a result, it has had little effect on the overall number of overstays, government studies show.

To better track visitors, the government created a digital screening system in 2004 called US-VISIT to record the arrival and departure of foreigners. The new equipment is used to identify, photograph and fingerprint visitors at airport checkpoints and other locations around the country.

Although the entry portion of the system is up and running at 115 airports, 15 seaports and 154 land ports of entry, the exit portion is operating at only a dozen airports and two seaports. The department hopes to have the system in full operation by the end of the year.

"We are still trying to close off those holes," said Homeland Security spokeswoman Kimberly Weissman.

"We're not there yet."

In addition to safety concerns, Kamara now has other reasons for wanting to stay in the United States. He married a U.S. citizen from Sierra Leone in January 2001, and they had a son.

His wife petitioned for him to get a green card. Kamara also applied for asylum but later withdrew the application.

In the intervening years, he was accused of overstaying his original tourist visa and placed in deportation proceedings.

A judge ordered him deported after Kamara missed an October 2002 hearing, which he blamed on his former attorney. His new lawyer got the case reopened and a hearing is scheduled today.

Kamara said he isn't sure what he will do if the judge rules against him. Living as an illegal immigrant has been difficult. He has worked under the table, primarily tutoring students in math and doing construction. His family constantly worries about his possible deportation.

Despite coming here legally, Kamara said he doesn't feel any different from those who sneak across the border.

"Most of us, we are running away from situations just to save our lives or to live a better life," said Kamara, whose father was granted political asylum in the U.S.

"I want to be a law-abiding citizen," he said. "But I was in a situation where I couldn't go back."

In a similar case, Jayantibhai Desai, 50, a native of India, and his wife, Indiraben Desai, 54, of England, entered the United States on visitor visas in the early 1980s. But they said they always planned on staying.

"We had no intention to go home to India," said Jayantibhai Desai, a travel agent. "My whole family was here."

But after surrendering to immigration authorities in 1997 on the advice of their attorney, the Desais were ordered deported. They are appealing. They are also fighting to get their case reopened so their 21-year-old son, a U.S. citizen, can continue with his petition for their legalization.

They own a home in Norwalk and have two sons in college. Both have work permits and pay their taxes.

"We overstayed, but we've been punished enough," Indiraben Desai said. "We've been here so many years. Everything we have is here."