



Working with Immigrant Survivors of Trauma: Safely Discussing Traumatic

Morgan Weibel & Blanca Picazo

4th BIENNIAL TRAUMA CONFERENCE

Addressing Trauma across the Lifespan: Integration of Family,
Community, and Organizational Approaches

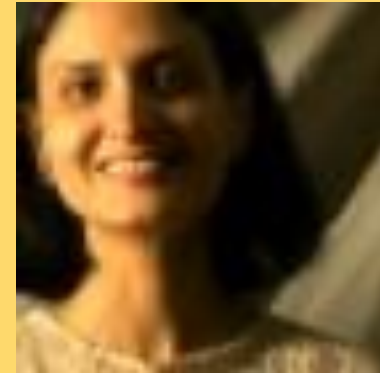
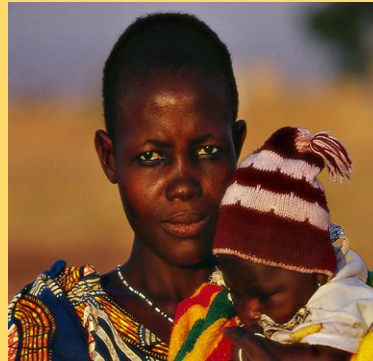
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Objectives

- Familiarize participants with the immigration remedies available to survivors of trauma.
- Empower service providers with the necessary tools to approach immigrant survivors of trauma in a culturally and linguistically competent manner.
- Provide tips and guidance on how to safely interview immigrant survivors of trauma.

Immigration Remedies for Victims of Trauma



Objectives

- Outline forms of relief available to immigrant survivors of trauma
- Understand the elements for each form of relief
- Understand the benefits that each form of relief can bestow upon survivors trauma

**The U Visa:
Immigration Relief for
Certain Victims of Trauma**

Background/Policy

Congress created the U Visa in an effort to strengthen the ability of law enforcement agencies to detect, investigate and prosecute crimes against immigrants and protect victims.

-Victims of Trafficking and Violence Prevention Act of 2000

Eligibility for the U Visa

Applicant:

- is a victim of a qualifying crime in the United States;
- possesses information concerning that qualifying crime;
- has been helpful, is being helpful, or is likely to be helpful to a law enforcement official;
- has suffered substantial physical or mental abuse.

Qualifying Criminal Activity (including non-sexual crimes)

One or more of the following *or any similar activity* in violation of Federal, State, or local criminal law:

Rape, sexual assault or abusive sexual contact	Domestic violence
Kidnapping, abduction, false imprisonment, or unlawful criminal restraint	Felonious assault
trafficking	manslaughter, murder
torture	prostitution
female genital mutilation	peonage, involuntary servitude, slave trade
blackmail, extortion	witness tampering, obstruction of justice, and perjury

+ Attempt, conspiracy, or solicitation to commit any of the above

Substantial Harm of the Sexual Violence

- Can be physical or mental
- Factors include:
 - nature of injury
 - severity of criminal conduct
 - severity of harm
 - duration of infliction of harm
 - permanence or seriousness of harm to appearance, health, or physical or mental soundness of victim
- Case-by-case determination

Helpfulness

- The U Visa is available to those who are “helpful” (in the past, present, or future) regardless of whether the investigation or prosecution results in a conviction.
- Ongoing responsibility to cooperate; certifying official can withdraw certification
- DHS can contact certifying official
- A parent or guardian can fulfill the cooperation requirement for incompetent or incapacitated victims, or victims under 16 at the time of criminal activity

Law Enforcement Certification

Certification Form (I-918, Supp B) is signed by:

- Police or prosecutors
- Judges
- Other agencies with criminal investigative jurisdiction, such as:
 - Child Protective Services
 - Equal Employment Opportunity Commission
 - Department of Labor

Must be signed by either the head of the agency or an individual specifically designated by the head of the agency.

Certifying official can withdraw certification.

Benefits of the U Visa

- Legal status and work authorization for 4 years
- Can petition for derivatives (I-918 Supplement A)
 - For applicants under 21: spouse, children, parents and unmarried siblings < 18 years
 - For applicants 21 or older: spouse, children
- Can apply to adjust status to Lawful Permanent Resident (“green card”) after 3 years

The T Visa:
*Immigration Relief for
Victims of Human Trafficking*

What is Human Trafficking?

Sex Trafficking

- induced to perform a commercial sex act by **force, fraud, or coercion**, OR
- under the age of 18 and induced to perform a commercial sex act

Labor Trafficking

- recruitment, harboring, transportation, provision, or obtaining of a person for labor or services;
- through the use of **force, fraud, or coercion**;
- for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Identifying Victims: Factors to Consider

- Control of documents
- Debt
- Working conditions
- Payment of wages
- Voluntariness of work
- Living conditions
- Isolation
- Threats
- Psychological manipulation
- Disorientation
- Fear and submission
- Language/cultural barriers
- Control
- Ability to come and go
- Physical or sexual abuse

Where are Trafficked Persons?

- Domestic services
- Embassies
- In servile marriages
- Construction
- Factories
- Agricultural fields
- Laundromats
- Motel housekeeping
- Massage parlors
- Hair and nail salons
- Strip clubs
- Brothels

POTENTIALLY ANYWHERE!

Identifying Victims: Force, Fraud, or Coercion?

- Control of documents
- Debt
- Working conditions
- Payment of wages
- Voluntariness of work
- Living conditions
- Isolation
- Threats
- Psychological manipulation
- Disorientation
- Fear and submission
- Language/cultural barriers
- Control
- Ability to come and go
- Physical or sexual abuse

Eligibility for the T Visa

Applicant:

- is or has been a **victim of a severe form of trafficking**
- is **physically present** in the United States on account of trafficking
- **complied with any reasonable request** for assistance in the investigation or prosecution (if over 18)*
- would **suffer extreme hardship** involving unusual and severe harm if removed from the United States

**Exception for those unable to cooperate due to physical and psychological trauma*

Benefits of the T Visa

- Legal status and work authorization for four years
- Eligible for same public benefits as a refugee
- Can petition for derivatives (I-914 Supplement A)
 - For applicants under 21: spouse, children, parents and unmarried siblings < 18 years
 - For applicants 21 or older: spouse, children, or any parent or unmarried sibling who faces danger of retaliation from trafficker
- Can apply to adjust status to Lawful Permanent Resident (“green card”) after three years or upon conclusion of investigation and prosecution of criminal case

**Violence Against Women Act
(VAWA):
*Immigration Relief for
Victims of Domestic Violence***

Purpose of the Violence Against Women Act (VAWA)

Provides relief to:

- immigrants;
- in abusive familial relationships (child/spouse/parent) with US citizens or lawful permanent residents (LPRs or “green card holders”);
- on whom their own legal status would otherwise have depended.

Who Qualifies for VAWA?

- **Abused spouses of USCs and LPRs**, including their children as derivatives
 - If filed within two years of divorce or abuser's loss of status
 - Eligible if marriage would have been legal but for bigamy of abuser
- **Non-abused spouses of USCs or LPRs** where their child is abused
- **Abused children (natural born/adopted/stepchildren) of USCs** (up to age 25)
- **Abused parents of adult USCs** (over age 21)

* Men can also claim VAWA relief.

Three Types of VAWA Relief

- **Self-Petitions:** for victims who do not yet have permanent residency (“green card”)
- **Battered Spouse Waivers:** for victims who currently hold conditional residency (“2 year green card”)
- **VAWA Cancellation/Suspension of Removal:** for victims who are currently in Immigration Court Proceedings and ineligible for other forms of VAWA relief

VAWA Self-Petition Requirements

- **Status of the Abuser** (US Citizen or LPR)
- **Good Faith & Legal Marriage** (evidence that the couple married for purposes other than immigration status)
- **Shared Residence** (evidence that the couple cohabitated)
- **Battery or Extreme Cruelty** (evidence of physical, mental and/or sexual abuse)
- **Good Moral Character** (of the Petitioner)

Benefits of an Approved VAWA Self-Petition

- Green card: Applicants who are/were married to a USC are immediately eligible to apply for permanent residency
- Deferred action: Permission to remain in the U.S. and legally work. Applicants who are/were married to a LPR can apply for permanent residency in the U.S. (or at a U.S. Consulate/Embassy abroad) when a visa becomes available.
- Derivatives: unmarried children under the age of 21 (and those over 21 who are protected under the Child Status Protection Act)

Benefits of an Approved Battered Spouse Waiver

Unconditional (Permanent) green card

Derivatives: unmarried children under the age of 21 (and those over 21 who are protected under the CSPA)

Asylum:
Immigration Relief for
Victims of Gender-Based Violence

Who Qualifies for Asylum?

“any person who is outside any country of such person’s nationality . . . and who is unable or unwilling to avail himself or herself of the protection of that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.”

Harm Constituting Persecution

Threats to life or Freedom	Torture	Severe Economic Persecution
Physical Harm-beatings/assault	Rape or Sexual Assault	Prolonged Detention or Confinement
Female Genital Mutilation/Cutting	Servitude or Child Soldier	Forced Marriage

*Psychological harm may not be persecution in the Fourth Circuit

Gender-Based Asylum

- Actual or imputed political opinion: about women's roles in society and control over their own bodies.
- Religious beliefs: that differ from her persecutor's religious beliefs concerning the proper role of women in society.
- Membership in a particular social group: of women with shared immutable characteristics. (i.e. who are of a certain age and tribe and have not undergone FGM or who are in domestic relationships and treated as property by virtue of their relationship).

Failure of State Protection

- Government must be either:
 - a) the persecutor, or
 - b) unwilling or unable to protect the applicant from non-state actors.
- Government has not taken reasonably effective steps to control harm or suffering
- Applicant's attempts to seek government assistance would be futile.

Bars to Asylum

- One year filing deadline
 - Not applicable to unaccompanied minors
 - Exception= Changed/Extraordinary Circumstances
- “Safe Third Country” = Canada
- Firm Resettlement (offer of permanent residency)
- Persecution of others
- Conviction for a “particularly serious crime”
- Terrorism grounds

Benefits of Asylum

- Legal status and work authorization
- Eligible for same public benefits as a refugee
- Can petition for derivatives (I-730)
 - spouse (non-abuser), unmarried children who were under the age of 21 at the time of filing
- Can apply to adjust status to Lawful Permanent Resident (“green card”) after one year

**Special Immigrant Juvenile Status
(SIJS):**

***Immigration Relief for Unaccompanied
Minor Victims***

Eligibility for SIJS

- Unmarried and under age 21 (usually under the age of 18)
- Unaccompanied =not viable to reunify with a parent or both parents
 - Abuse, abandonment, neglect, or similar maltreatment
- Not in best interest of child to return to country of origin
- Dependent on juvenile court or placed in custody, in accordance with state law

Benefits of SIJS

- Status as a Lawful Permanent Resident (“green card”)
- No derivative status available

Trauma Informed Services: Working with Survivors of Domestic Violence and Sexual Assault



Objectives

- Learn the importance of trauma informed services
- Review the definition of trauma
- Learn how trauma affects the human being as a whole: body, mind, emotion and spirit
- Gain information on Post-Traumatic Stress Disorder (PTSD)
- Find out who is at risk for developing PTSD

Importance of Trauma-Informed Service Delivery

- Knowledge and understanding of trauma
- Awareness of signs and symptoms
- Welcoming and supportive attitude
- Willingness to establish rapport and connection
- Non-judgmental stance
- Calm and approachable demeanor
- Reassurance and comfort
- Proactive versus reactive response to crisis
- Knowledge of community resources for referrals

(KHRW/NVFS, 2009)

Definition of Trauma

Two Conditions:

- The direct experience, witnessing or learning of an event that involves actual or feared death, serious physical or emotional injury, or threat of injury.
- A response to the event that involves intense fear, helplessness, or horror.
- (DSM-IV-TR)

“The brain responds to how events are subjectively perceived and experienced – not to events objectively described. One person’s stress is another person’s trauma”

(Griffith, 2010)

Common Reactions to Trauma

(KHRW/NVFS, 2009)

Emotional Reactions	Physical Reactions
<p>Sadness, grief, depression</p> <p>Fear, inability to feel safe</p> <p>Feelings of guilt and/or shame</p> <p>Anger, irritability</p> <p>Inability to enjoy anything</p> <p>Loss of trust</p> <p>Loss of self-esteem</p> <p>Helplessness and/or hopelessness</p> <p>Emotional distance from others</p> <p>Intense or extreme feelings</p> <p>Numbness, feeling chronically empty</p> <p>Blunted/flat or labile affect</p>	<p>Nervous energy</p> <p>Upset stomach</p> <p>Muscle tension</p> <p>Headaches</p> <p>Rapid heart rate</p> <p>Dizziness</p> <p>Lack of energy</p> <p>Fatigue</p> <p>Teeth grinding</p>


Common Reactions to Trauma

(KHRW/NVFS, 2009)

Behavioral Reactions	Mental Reactions
<p>Becoming withdrawn or isolated from others</p> <p>Startling easily</p> <p>Avoiding places or situations</p> <p>Obsessive or compulsive behaviors</p> <p>Becoming confrontational and aggressive</p> <p>Sleep disturbances, including insomnia and nightmares</p> <p>Change in eating habits</p> <p>Loss or gain in weight</p> <p>Restlessness</p> <p>Increase or decrease in sexual activity</p>	<p>Changes in the way you think about yourself, the world and other people</p> <p>Heightened awareness of your surroundings (hypervigilance)</p> <p>Paranoia</p> <p>Lessened awareness, disconnection from yourself (dissociation)</p> <p>Flashbacks and intrusive memories</p> <p>Difficulty concentrating</p> <p>Poor attention or memory problems</p> <p>Difficulty making decisions</p>

PTSD Is the Severe End of a Spectrum of Responses to Trauma

Traumatic Exposure without Sequelae
(Many People)



Brief Posttraumatic Symptoms
(Normal Stress Response)



Post-traumatic Stress Disorder – PTSD
(Chronic Illness for 20% of people)

PTSD and Resiliency

(Griffith, 2011)

Risk Factors	Protective Factors
<p>Severity of traumatic event – terror, horror, helplessness, humiliation.</p> <p>Previous exposure to traumatic events including childhood physical, sexual, or emotional abuse.</p> <p>Absence of protective and affirming social support in response to the traumatic event.</p> <p>For children – disruption of familiar places and routines by the traumatic event.</p>	<p>Strong sense of purpose or commitment.</p> <p>Preparation or training for stressful event.</p> <p>Supportive network of family relationships or social network.</p> <p>Assertive coping style (embracing rather than submitting to adversity).</p> <p>For children – stability of family and daily routines.</p>

“Traumatic events are extraordinary, not because they occur rarely, but rather because they overwhelm the ordinary human adaptations to life. Unlike commonplace misfortunes, traumatic events generally involve threats to life or bodily integrity, or a close personal encounter with violence or death. They confront human beings with the extremities of helplessness and terror, and evoke the responses of catastrophe. The common denominator of trauma is a feeling of **intense fear, helplessness, loss of control, and threat of annihilation.**”

(Herman, 1992)

Questions?

Blanca Picazo
Social Services Associate
blanca@tahirih.org
410-999-8399

Morgan Weibel
Supervising Immigration Attorney
morgan@Tahirih.org
410-999-1230

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Protecting Immigrant Women and Girls Fleeing Violence

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Small Group Breakout Activity

In small groups, brainstorm strategies for interviewing the client (i.e. what to ask, how to organize the interview, etc.)

Remember, you are looking specifically for evidence of three things:

- **Sexual Assault**
- **Domestic Violence**
- **Extreme Cruelty**

*You may want to take notes as we will be coming together as a group to discuss some suggested strategies