

Empowering the Disenfranchised: Supporting Spouses of International Students and Scholars

JIN EXPECTED TO HAVE DIFFICULTIES acclimating to her new life in the United States, finding her own independent reasons for being here and her own circle of friends. She had never traveled outside of her country and knew her husband would spend the majority of his time engaged in his studies and research. What she did not expect was a sense of isolation

and frustration to such an extent that she and her spouse began to have serious problems. Jin could not speak English very well and relied on her husband for companionship, transportation, and connection to the rest of campus community. In her case, hypothetical as it may be, Jin would be one of the fortunate international spouses in the United States because she and her husband were able to work through their difficulties.



CORBIS

Not all international spouses are so lucky. Domestic violence among international spouses is a very real and very serious issue, particularly when the spouse is so isolated. Many international offices have had experiences with those unfortunate international victims of spousal abuse or have heard of cases of such abuse. Currently, international offices on university campuses have no consistent way of understanding the reporting and options available to victims of domestic violence. Some critical items international student/faculty advisers need to know include: the relevant laws, available resources, and what other campuses are doing to resolve, educate, and integrate a disenfranchised population into the campus community. The issue at hand is how best to disseminate information to a traditionally disenfranchised group, i.e., communicate unique cultural issues without being culturally insensitive.

There is no statistical information in the current research literature regarding rates of incidences of domestic violence among the international student/scholar community. The issue of domestic violence is,

nonetheless, being addressed for several reasons, but cultural attitudes, parent/child relations, and language issues limit current prevention efforts and victim options. One example concerning the language barrier is that the Korean language has no word for rape, according to the University of Virginia's Women's Center. Although no statistical evidence currently exists justifying the need for a domestic violence protocol specific to the international student/scholar community, it, nonetheless, is arguably the duty of any college or university international programs office to advocate on behalf of their internationals and their families while also educating the campus population.

Domestic Violence

Domestic violence includes a wide range of behaviors, including emotional, physical, economic, and sexual abuse.¹ Intimate partners may be in a dating relationship, cohabiting, married, separated, or divorced. While there is scant research on domestic violence among foreign nationals on U.S. campuses, there are basic data available regarding domestic violence with

respect to general college communities. Some of the statistics reported include:

- 20 to 30 percent of college dating relationships have included incidents of either verbal and physical abuse, according to estimates (Texas Council on Family Violence 2004).
- 15 percent of female college students reported being stalked, according to a 2000 National Institute of Health survey.
- One in four college women are victims of rape or attempted rape, 84 percent of those raped knew their attacker, and 57 percent of the rapes happen on dates, as shown in a study of more than 60,000 students at 32 U.S. colleges and universities (TAMU Women's Center 2004).

The general issue of domestic violence within the international campus community can be divided into three parts: identifying the legal consequences of reporting instances of abuse, identifying current legal protections afforded to nonimmigrants, and determining how international student/scholar advisers can best disseminate this information to a traditionally disenfranchised population. The challenges are exacerbated by language barriers, isolation, lack of an established support network, and a lack of incidence reporting by victims. Other barriers that hinder access to assistance for these victims include: misinformation and a lack of knowledge of the U.S. legal system, economic concerns, and cultural and religious differences.

Legal Ignorance

In many cases abusers have been known to misinform their victims about the victims' rights to protection under U.S. civil and criminal laws and their right to apply for immigration status in the United States. The abusers may also state that they will get custody of the children under U.S. laws or will take the children to a country where the victim cannot go, and in some cases the legal system in the victim's home country does not have laws or does not enforce laws against domestic violence. In the case where a U.S. citizen or permanent resident is in a relationship with a foreign national, abusers can, and anecdotal evidence illustrates that they often do threaten to report their victims to immigration officers—even though there may be no actual infractions of U.S. immigration laws. Unaware of their legal rights, victims may thus be unwilling to contact the police or cooperate with law enforcement if they believe that the abusers or even the police, a judge, or a public benefits administrator will report them to immigration officers. Internationals who are victims of abuse may also fear that the abusers will be deported, taking with them any children a couple may have. Victims also may be afraid that they will be ineligible for legal status without the abuser. *For an in-depth look at the relevant U.S. laws that relate to domestic violence and international students/scholars/spouses, see "The Legal Landscape" on p.44–45.*

Economic Concerns

In the case of possible deportation of an abuser, who in some cases is the sole source of income for the couple, there is also the fear that the victim will lose child-support payments (if there is a legal

separation), causing the victim to be unable to financially support him or herself. There is also concern about the potential loss of funds that would have been sent to the victim's family back home. Spouses of internationals with an F-2 visa are unable to work, but those with a J-2 visa are eligible to work. Even with the ability to work, these individuals may only be able to find low-paying positions with no child care. The reason for this is that a J-2 visa holder cannot be the main source of family income. Nonimmigrants who are eligible to receive public assistance, find it very difficult to do so due to ignorance (Wolchok 1997). In the case of J-2s, they are not permitted to receive any public assistance benefits.

Cultural and Religious Differences

A victim's culture or religion may disapprove of one challenging domestic violence, male domination, or may even prohibit the severance of a marriage. Divorce or separation may violate social mores or bring shame to a family or community. It is not uncommon in some cultures for a victim's family and community to ostracize a woman if she leaves a marriage or makes public the domestic violence. In a recently documented case, an international woman living in the United States with her husband was the victim of a particularly brutal attack in which her husband tortured her for hours in an attempt to kill her. This was not the first time she had been victimized, but it was the most serious. After the attack, the husband sent word back to their village in the Middle East that his wife had had an extramarital affair. The woman's family began a series of long-distance threats against her and her youngest son for dishonoring the family. The woman's own brother even called to the United States and stated he would kill her to cleanse the family's honor, and if he was not able to do so, then her male cousins would. Under law in this particular country, a man may kill an adulterous family member with impunity (Kesselbrenner and Lin 2003). This true situation illustrates the woman's reasonable fear of persecution having been perceived as greatly dishonoring her family; a perceived transgression against social mores as well as her unwillingness to accept her fate for the supposed transgression (Kesselbrenner and Lin 2003).

Current Legal Protections

There are a number of legal protections or services for spouses of international students/scholars as identified by the National Immigration Project of the National Lawyers Guild (2004) and California Coalition Against Sexual Assault (2002). Such protections and services can include the following:

Change of Status/Transfer

One option for those victims who desire to leave the campus on which they were victimized is to seek a change of status/transfer. Difficulty in pursuing this option typically rests on a victim's ability to meet the financial requirements, linguistic qualification, and previous educational and personal background to meet the eligibility criteria.

Restraining Orders

When a noncitizen or any individual is the victim of domestic violence or sexual assault in an intimate relationship, a restraining order can prohibit the abuser from contacting, attacking, sexually assaulting or telephoning the victim, his/her children, and other family members. Along with this order, in most states, the victim can be awarded custody of the children, child support, exclusion of the batterer from the home and the batterer can be ordered to not interfere with the victim's immigration status. Applicants for restraining orders do *not* need to be a U.S. citizen or permanent resident.

Shelter

Noncitizens, regardless of their status, who are victims of domestic violence, child abuse, or who are homeless as a result of domestic

violence have the same legal right to access domestic violence shelters and transitional housing as citizens, for up to two years. Housing is based on availability. A victim may also be eligible to receive additional public benefits under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, sections 501 and 552.

Child Custody and Support

Most state laws favor awarding custody of the children to the non-abusive parent even when the parent lacks legal immigration status. Many noncitizen domestic violence victims may have options to attain legal immigration status through Violence Against Women Act of 1994 (VAWA) self-petitioning, VAWA cancellations of removal, or the U Visa (*see below*). In most jurisdictions, if a victim is seeking a protection order, the court can award temporary custody and child support at the time of the protection order hearing.



The Legal Landscape

During the past 50 years, U.S. laws that relate to domestic violence and international students/scholars have existed and, notably, went through significant changes in the 1990s. The first change came with the Immigration Act of 1990 (IMMACT90), which constituted a major revision of the Immigration and Nationality Act of 1952, although the latter still remained the basic immigration law. The 1990 act's primary focus was the numerical limits and preference system regulating permanent legal immigration. Besides legal immigration, the eight-title IMMACT90 dealt with many other aspects of immigration law ranging from nonimmigrants to criminal aliens to naturalization. It significantly revised the political and ideological grounds of exclusion and deportation, which had been controversial since their enactment in the Immigration and Nationality Act. Then, in 1994, the Violence Against Women Act (VAWA) allowed immigrant spouses and children who were being abused by their U.S. citizen or permanent resident spouse or parent sponsor to become permanent residents independent of their sponsor's petitions for them.

IIRAIRA: A Major Shift

The landscape changed drastically when the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) of 1996 was enacted. Provisions in IIRAIRA were aimed at adopting stronger penalties against illegal immigration and streamlining the deportation process by curtailing the seemingly never-ending legal appeal process. IIRAIRA also barred legal admission for removed illegal aliens (for 5–20 years depending on the seriousness of the immigration violation) and permanently barred admission for deported or removed aggravated felons. The legislation authorized necessary funds to expand the U.S. government's automated biometric identification system, known as "IDENT," to include fingerprinting of all illegal and criminal aliens apprehended nationwide, while also facilitated the deportation of criminal aliens by expanding the definition of aggravated felony to include crimes carrying a prison sentence of one year or more rather than time served (Federation for American Immigration Reform 2000).

However, provisions of IIRAIRA wiped out the gains of VAWA, effectively putting battered immigrants back at the mercy of their abusers by closing off avenues for their adjustment to permanent residence. Victims thus now have the choice of staying with the person who is abusing them, or being deported from the

United States. IIRAIRA also expanded the number and type of criminal convictions that render a noncitizen deportable or inadmissible, changed the sentencing structure that triggers removal, and stripped away many of the immigration defenses traditionally available to noncitizens (Chesser 2000).

With respect to domestic violence, IIRAIRA makes it possible for noncitizens already in the United States to be considered deportable, i.e., placed in removal proceedings for the following: crimes of moral turpitude and aggravated felony. A crime of moral turpitude refers generally to conduct which is inherently base, vile, or depraved, and contrary to the accepted rules of morality. Crimes of moral turpitude include, among others, crimes against individuals, crimes against property, and sexual offenses. One of the broadest categories of aggravated felonies is the provision defining crime of violence. For a crime of violence to be considered an aggravated felony, the sentence imposed must be at least one year. The law stipulates that to be considered an aggravated felony, an offense must have as an element the use, attempted use, or threatened use of physical force against the person or property of another, or any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense, such as the sexual abuse of a minor (Kesselbrenner and Lin 2003).

Police Assistance and the Criminal Legal System

Noncitizens can report crimes committed against them to the police. There is no legal requirement for law enforcement to report undocumented persons to immigration officers.

The U Visa Interim Relief

The U Visa Interim Relief was created by the Victims of Trafficking and Violence Prevention Act (PL106-386) enacted October 28, 2000. The law created the U nonimmigrant status for victims of specific crimes. The law's purpose was to strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, and other criminal activity of which internationals are victims, while offering protection to victims of such offenses. It is available to noncitizens who have suffered substantial physical or mental abuse resulting from a wide range of criminal activity, and have been helpful, are being helpful or are likely to be helpful with the investigation or prosecution of the crime.²

A Survey on International Incidents

In an attempt to begin filling the void of statistical data on domestic violence among international students/scholars and their spouses on U.S. campuses, a modest survey (N=21, with a response rate of 48 percent) was conducted by this author. The results of which create a partial portrait of what is happening among the international student/scholar community on similar campuses. Research I universities were chosen based on their reported numbers of international students/scholars on their respective campuses according to the Institute of International Education's 2004 *Open Doors* report, and institutional type (i.e., public/private/for profit).

According to *Open Doors 2004*, Research I universities host the most international students and scholars. Thus, although the survey sample was small, it reflects the notion that international studies offices are unaware or intentionally ignoring the situation of domestic violence, given the cultural constraints of making this known by internationals. A majority of those surveyed (80 percent)

Criminal and Immigration Law

There is a clear distinction between criminal and immigration law. A noncitizen is not subject to deportation if criminal conviction was for a petty offense, i.e., when the maximum penalty possible for the crime for which an international was convicted could not exceed imprisonment for one year and the individual was not sentenced to a term of imprisonment in excess of six months. However, an international may still be subject to removal, under immigration law, if that person has been convicted of a petty offense within five years of admission to the United States (Chesser 2000, Gallagher 2002).

If an international is convicted of a crime of domestic violence, that person may then be subjected to removal under three separate grounds: first, as a person convicted of a crime of domestic violence; second, as a person convicted of a crime of moral turpitude; or third, as a person convicted of a crime of violence, i.e., an aggravated felony. Thus, any international who at any time after entry is convicted of a crime of domestic violence, a crime of stalking, or a crime of child abuse, child neglect, or child abandonment is deportable (Ware and Robles 2003). The law defines domestic violence (U.S. Code section 16 of title 18) as a crime against a person committed by a current or former spouse of the person, by an individual with whom the

person shares a child in common, by an individual who is cohabitating with or has cohabitated with the person under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other individual against a person who is protected from that individual's acts under the domestic or family violence laws of the United States or any State or unit of local government (Chesser 2000, Gallagher 2002).

Further, any international who is convicted of a crime involving moral turpitude committed within five years after the date of admission, and is convicted of a crime for which a sentence of one year or longer is deportable. A noncitizen may also be subject to removal if the domestic violence conviction is found to be a crime of violence and thus, an aggravated felony. In summary, if the crime is an aggravated felony, if the sentence is for a year or more, if the crime is one of violence or of moral turpitude, if the crime is a crime of domestic violence, and the term of imprisonment is for more than one year, then the individual is subject to removal proceedings. Crimes of domestic violence form a distinct removability provision under the Immigration and Nationality Act (1952). This includes persons convicted of simple misdemeanor battery, even though a misdemeanor battery is not considered a crime involving moral turpitude (Chesser 2000, Gallagher 2002, Ware and Robles 2003).

It may appear that the enforcement of immigration laws may facilitate the reporting

of domestic violence and trigger immigration consequences. The immigration issue only comes into play when it is the result of an abuser being charged and subsequently convicted. Law enforcement has no power, per se, to make this determination. According to the National Immigration Forum (2004), enforcement of immigration laws by local police vary from state to state. For example, a new law was recently passed in the State of Virginia relating to police enforcement of immigration laws.⁵ Although the law is limited in scope, it does allow police to make warrantless arrests of foreign nationals whom the police officer has reasonable suspicion to believe is committing a crime in the United States. Police departments in four counties in Virginia have issued statements describing the limited nature of this law and assure the public that they are not looking to "pick up" any undocumented immigrants. Nonetheless, "there is still a lot of fear on the part of immigrants, especially those survivors of abuse."⁶ Conversely, the cities of Austin and Houston, Texas, have established local ordinances against local police enforcement of federal immigration laws. For further information about the status of local police enforcement of immigration laws in a particular state, access the National Immigration Law Center Web site at www.nilc.org.

reported uncertainty as to the specific number of domestic violence incidences and 40 percent did not assume responsibility to act on behalf of their international population, but rather referred any situation to the campus police or counseling center. Their responses may be reflective of the overwhelming workload placed on international student services offices resulting from post-September 11, 2001 legislation and regulations, thus altering the priority to act as advocates on behalf of internationals and their families and instead act as enforcers of immigration regulations.

Getting the Word Out

The most interesting, insightful, and practical findings of the survey were the additional comments provided by respondents. Based on those comments and meetings held with Texas A&M University's Gender Issues Education Services and the University of Virginia Women's Center, counseling center, campus police, and various community based programs, the following strategies (proposed or currently implemented by participants in the survey) to effectively disseminate information to spouses of international students/scholars are offered.

- Staff development to address or increase awareness/knowledge of: definitions, myths and facts, university response protocol, gen-

eral guidelines for helping victims, police information, special populations, campus and area resources, etc.

- As part of the New International Student Orientation (or a special F-2 orientation), member from The Women's Center, member from the Department of Student Life, and member from the Counseling Center can provide a 30-minute general information presentation (New Student Programs Office or International Student Services). A more formal presentation can include the above along with an International Student Services adviser to provide immigration consequences to incidences of domestic violence, sexual harassment/assault, and child abuse/neglect.

- Create welcome packets to be provided to international student/scholar spouses upon mandatory check-in with the university upon arrival to the United States. The packet will contain information concerning community resources, social activities, support services, etc.

- Use international outreach volunteers trained by the Gender Issues Education Services Office or Women's Center to go to dorms/residence halls.

- Train women who live in student housing to have discussion groups to disseminate information. Utilize local community programs, such as "Discovery" at Texas A&M University or "The Web Project" at the University of Virginia to disseminate information.

- Link on International Student Services' website to resources for international women and maintain current links to Department of Student Life for information on definitions, statistics, general effects, treatment, resources, etc. For example: Relationship Violence Information (<http://studentlife.tamu.edu/gies/resources/SexualViolence/relviol.htm>) and Sexual Violence Response Protocol (<http://studentlife.tamu.edu/gies/svrp.htm>).

- Publicizing available resources via informational posters/flyers written in various languages to be posted (in collaboration with Residential Life and other relevant departments) in residence halls' bathrooms, laundry rooms, common areas at international student/scholar housing, and other locations where they will best reach international women.³

- Informational materials sent to internationals along with their visa documents.

- Informational materials in home language identifying resources and phone numbers for: Who they can safely tell and not lose child, visa, face, etc.; If you talk to shelter, then...; If you talk to police, then...; If you talk to therapist/counselor, then...; If you talk to ISS staff, then..., etc.

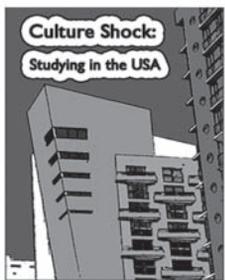
- Each September and January, spouses of international students/scholars are greeted at a dinner buffet hosted by (in collaboration with other international offices) International Student Services and International Faculty Scholar Services office staff members and "old-timers" eager to make the newcomers feel welcome. This begins a series of programs that extends through the year to provide both practical information and an opportunity to develop a network of friends and helpers.

- Create an International Spouse Network.⁴

A thoughtful and substantive culture shock video from the University of Richmond

Culture Shock: Studying in the USA chronicles the feelings and insights of 17 students and 9 faculty & staff regarding the difficulties international students face when they arrive on US campuses. The clips have been organized into eight chapters or topics (*The First Shock, Academics, Problems, Support, Advice, Friends, Insights, and Diversity*) and are available for viewing at no charge on the web at:

<http://cygnet.richmond.edu/academic/book-store/>



If you wish you may also purchase a DVD version of the program for group viewing at the same website. The cost is \$44.00. The chapters on the DVD may be played together as a complete program (rt: 51 min.) or individually, from the menu, in any order desired.

"This video was created with international students studying in the US as the primary audience. However, the students' comments and insights are so powerful that the video should be seen by all faculty and staff so that they better understand the challenges these students are facing"

Dr. Patricia Schoknecht
Director, Center for Teaching, Learning, and Technology
The University of Richmond



If most U.S. campus international offices are indeed uncertain of the specific number of domestic violence incidents, and many of those offices are opting to defer responsibility to act on behalf of their international population to the campus police or counseling center, it is clear that those offices are not able to act as advocates on behalf of internationals and their families. While likely reflective of the overwhelming workload placed on international student services offices, which causes those offices to act foremost as enforcers of immigration regulations, there is a disenfranchised campus population that needs help. U.S. campuses need to address the issue and become more aware and prepared en route to edifying an appropriate office protocol that can assist in the prevention of domestic violence and empower those who may already be victims. At the least, it is hoped that this article will encourage more discussion among the various stakeholders on campuses. **IE**

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Endnotes

1. The generally accepted definition of domestic violence is: A pattern of physically, sexually, or emotionally abusive behaviors used by one individual to maintain power or control over a partner in the context of an intimate or family relationship. California Coalition Against Sexual Assault 2002; Texas Council on Family Violence 2004.
2. The U Visa Interim Relief is currently limited to 10,000 per year. Regulations implementing the new nonimmigrant status are still in the development phase. What is known is that the U Visa Interim Relief provides eligible immigrants with authorized stay in the United States as a temporary lawful resident for a period of up to three years. This means that the noncitizen will be permitted to live and work legally in the United States for the duration of the visa. At the end of the three year period, an immigrant in U Visa Interim Relief status may be eligible for permanent residency. To qualify for U Visa Interim Relief, the immigrant must be the victim to one or more of the following crimes or any similar activity in violation of federal, state, or local criminal law: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes. Each U Visa Interim Relief application will look different and must be tailored to each individual case. The U Visa Interim Relief is not an actual U Visa. It is only temporary relief until the U Visa regulations are written and U Visas are issued. In the future, a U Visa holder may apply for lawful permanent residence if the noncitizen has maintained continuous residence in the United States for at least three years, and if it is determined that continued presence in the United States is justified on humanitarian grounds, ensures family unity, or is otherwise in the public interest. The adjustment of status application will be denied if it is determined that the U Visa holder unreasonably refused to assist with a criminal investigation or prosecution (California Coalition Against Sexual Assault 2002). When one applies for the U Visa Interim Relief, that person must immediately renounce F-2 status or any visa status. For further information, refer to a competent immigration attorney, the Immigrant Legal Resource Center, or the National Immigration Project of the National Lawyers Guild.
3. According to California Coalition Against Sexual Assault (2002), the campus must be able to follow through on the advocacy promised in the materials that are available in other languages. A victim who chooses to ask for help once receiving materials in her own language must be assisted further in her recovery. Finding resources in her own language will suggest to a victim that she will be able to continue to gain support from the producer of the resources in her own language. If the campus is unable to provide advocacy in the languages that it would like to produce materials in, be sure to indicate this in the materials and suggest organizations that can assist in advocacy. Create collaborations with groups who can assist the campus with providing culturally competent services with language specific materials.
4. Other spouses are an excellent resource for companionship and information sharing, so the ISS can coordinate an International Spouse Network. There would be a Welcome Lunch at the beginning of each semester and a

compilation of an international spousal directory. An informal monthly lunch or outing for spouses, usually on the first Monday of the month throughout the academic year, would also be promoted. The purpose of this group, as different from the local "Discovery," program or in addition to it, will be to meet other spouses of students and scholars who are also new to the Aggie neighborhood, as well as those who have joined the spouse network previously and will be happy to share their knowledge and experiences with each other. It is here that they will find others who have interests in common, such as visiting area museums, jogging, tennis, movies, or forming a playgroup for parents and children. In addition to enjoying all that the surrounding area has to offer, spouses may find that becoming involved in one of Bryan/College Station's many volunteer opportunities has enriched their lives and provided more of a sense of belonging. The Network will acquaint them with some volunteer opportunities. Participation in the Network can help one adjust to life here in the United States, College Station, and at Texas A&M University, while providing them with opportunities to meet others, form friendships, learn about American culture, receive important cultural, perhaps legal information, and simply have fun.

5. Phone conversation with Ellen Kemp of the National Immigration Project of the National Lawyers Guild, 2004.

6. Ibid.

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