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### Recognizing Abuse May Be Key Step for Many Immigrants Seeking Green Cards

Recognizing "Abuse" May Be Key Step for Many Immigrants Seeking Green Cards by: Heather L. Poole

The Violence Against Women Act (VAWA), passed into law in 1994 and amended in 2001, provides hope for immigrant domestic violence survivors. An **abused** immigrant who is married to a U. S. citizen or Lawful Permanent Resident or who divorced her **abuser** in the past two years may now petition on her own for an immigrant visa and green card application, without the **abuser's** knowledge or consent. In this confidential process,

CIS (formerly called "INS") agents cannot legally contact the **abuser** and tell the abusive spouse anything of the **abused** immigrant's attempts to obtain a green card under VAWA. The process can often be completed within a year for those married to U. S. citizens. This process also provides renewed work authorization to lawful permanent residents who usually face a longer waiting period due to visa number backlogs. Further, there is no appearance in front of a judge required (the process is paper driven) by the immigrant spouse and s/he may leave her **abuser** at any time, without harm to her immigration status. So, given these benefits, why do so many immigrants in such abusive marriages not file for their permanent residency under VAWA?

There are two main reasons. For one, many do not know of VAWA's protections for **abused** immigrants and secondly, most do not recognize that what they have experienced or are still facing can be considered **abuse** or "extreme cruelty" under U. S. immigration law.

A finding of "extreme cruelty" (**abuse** under immigration law) is based on the emotional, psychological, financial, and/or physical **abuse** that an immigrant experiences during his or her marriage. The immigrant must not only prove to CIS that such **abuse** happened as best s/he is able but must also indicate how this **abuse** has affected the immigrant. What one immigrant may consider abusive (i. e. , derogatory put-downs) may not be considered abusive to another immigrant or person, depending on their culture, upbringing, background, or life experiences.

The immigrant must explain to CIS why their spouse's actions affect her so significantly and subjectively, and thus, why CIS should consider those actions, taken in their totality (i. e. , a pattern can be shown instead of one or two extremely abusive actions) should be considered "extreme cruelty. " For example,

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in many cases, a pattern of purely psychological **abuse** may be more terrifying and damaging to an immigrant's emotional and physical well-being than physical **abuse**. It is important to point out that an immigrant does not have to indicate that she experienced physical **abuse** to receive an approved VAWA case.

The following lists some common examples of behavior that may be considered "**abuse**" under U. S. immigration law:

Any type of Physical **abuse**, which also includes:

Forcing you to have sex with him against your will, for fear that he will have you deported or will physically harm you;

Forcing you to engage in his sexually perverse behavior even though you do not want to;

infecting you with HIV or other disease due to his reckless or intentional acts;

Groping, grabbing or touching you in your private areas in private or in front of others, humiliating you and making you feel uncomfortable;

Forcing you to engage in unsafe sex with him or others;

Psychological/Emotional Abuse may include:

Repeatedly making fun of you and humiliates you;

Intimidating you (or threaten to harm your family or friends);

Following you to or constantly calls you at your place of work trying to find out what you are doing;

Making degrading remarks about your home country or your gender or sexuality;

Threatening to have you and/or your children deported or call INS if you don't do what he says or if you tell anyone about the **abuse**;

Threatening to withdraw his green card sponsorship;

Refusing to let you visit with your friends or family members or speak to them on the phone;

Keeping tabs on you all day and becomes angry/obsessive about your whereabouts and who your friends are;

Locks you in your own house or apartment;

Refusing to let you use the phone to contact anyone or the police;

Attempting to sabotage your friendships and work relationships;

Attempting to destroy your reputation or causes you to lose your job;

Giving you false hope that he will never hit you or **abuse** you again;

Holding your passport hostage if you don't do what he wants;

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Refusing to let you see your immigration papers and maintains absolute control;

Treating you as his servant;

Harming your pets or threatens to kill them;

Ignoring you when you speak to him and refuses to speak to you, unless you do what he wants;

Destroying your property;

Threatening to commit suicide;

Ignoring you for hours or days, refusing to speak to you or acknowledge that you are speaking;

Blaming you for the **abuse** and his poor choices;

Threatening to take away your children or tries to use your children against you;

Financial Abuse may include:

Forcing you to pay all the joint expenses and even his private expenses;

Forcing you to work double shifts, long hours, or perform demeaning work;

Forcing you to beg him for money, even for the emergencies and basic essentials;

Sorting through your things and invading your privacy, looking for items you have purchased and humiliatingly make you account to him for even your own spent money;

Refusing to buy you food or clothing;

Stealing from you;

Forbidding you access to your joint accounts;

Punishing you for purchases s/he made accusing you of lying or stealing from him/her;

Many times, an immigrant who seeks legal assistance because of **abuse** does not mention psychological or financial **abuse** because she fears that she will not know how to prove it. Physical **abuse** usually can be documented with photos, police reports, court transcripts, and restraining orders, but admittedly, psychological **abuse** is more difficult to demonstrate.

It still can be proven, though, through evidence including detailed affidavits of witnesses, hospital records and counseling reports.

Financial **abuse** may also be proven through receipts, checking account statements, affidavits of witnesses, and other types of documentation. Its imperative for any immigrant in an abusive marriage to seek assistance from an attorney, to brain-storm with the attorney about what kinds of evidence and witnesses will be available, and more than anything, to know her options.

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Attorney Heather L. Poole practices family-based U.S. immigration law in Pasadena, California. She is a published immigration author and supervises abuse-based immigration cases at the Los Angeles Commission on Assaults Against Women. She is an active resource to the "Violence Against Women experts" list of the National Lawyers Guild, the National Network to End Violence Against Immigrant Women, and the National Domestic Violence Hotline. She can be reached at 626.432.4550 or heather(at)humanrightsattorney.com. For more information on the options available to abused immigrants, access [www.humanrightsattorney.com.info\(at\)humanrightsattorney.com](http://www.humanrightsattorney.com.info(at)humanrightsattorney.com)

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