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00:00:08,900 --> 00:00:16,266

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00:00:16,266 --> 00:00:19,883

Kelsey | End Abuse: Hi, everyone! We just started the recording.

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00:00:19,884 --> 00:00:26,404

Some people are still filtering in, but, Janan, whenever you're ready, I think we can go ahead and begin.

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00:00:26,404 --> 00:00:31,299

Janan Najeeb, Milwaukee Muslim Women's Coalition: Sounds great. Thank you very much.

Good afternoon, everyone.

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00:00:31,300 --> 00:00:37,700

Thank you very much for joining us today on behalf of the Milwaukee Muslim Women's

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00:00:37,700 --> 00:00:42,500

Coalition and End Domestic Abuse Wisconsin.

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00:00:42,500 --> 00:00:51,934

We welcome you to this afternoon's discussion on Transnational Marriage Abandonment System Solutions.

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00:00:51,934 --> 00:00:58,466

My name again is Janan Najeeb. I'm President of the Milwaukee Muslim Woman's Coalition,

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00:00:58,466 --> 00:01:06,403

and for those of you who don't know us, we have been around for almost 3 decades.

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00:01:06,404 --> 00:01:13,133

We're well known throughout Wisconsin for our educational programs and trainings,

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00:01:13,133 --> 00:01:24,466

our culturally informed classes for teachers, educators, elected officials, healthcare workers, etc.

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00:01:24,466 --> 00:01:34,132

We run a resource library and cultural center. We publish the Wisconsin Muslim Journal,

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00:01:34,133 --> 00:01:40,066

a free online publication. We host the Milwaukee Muslim Film Festival,

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00:01:40,066 --> 00:01:47,799

which is under the umbrella of Milwaukee Film. We have many programs for women, children,

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00:01:47,800 --> 00:01:55,704

and youth specifically, and 4 years ago we became the newest, culturally specific

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00:01:55,704 --> 00:02:01,733

Domestic Violence and Family Strengthening program here in the State,

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00:02:01,733 --> 00:02:09,199

serving mainly immigrants, refugees, and their children. But really anyone who seeks help.

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00:02:09,200 --> 00:02:15,114

Our special expertise, of course, is within the Muslim community.

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00:02:15,114 --> 00:02:23,539

I'm also very pleased to introduce to you Basema Yasin, who is a Coordinator and

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00:02:23,539 --> 00:02:29,832

Advocate with Our Peaceful Home, which is the Domestic Violence Project under the

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00:02:29,833 --> 00:02:32,334

Milwaukee Muslim Women's Coalition.

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00:02:32,334 --> 00:02:38,666

I'm also very pleased to introduce Kelsey Mullins. She is the staff attorney for

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00:02:38,666 --> 00:02:45,432

underserved populations with End Domestic Abuse Wisconsin, and we have been working

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00:02:45,433 --> 00:02:51,233

very closely together for quite a while now on transnational marriage abandonment,

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00:02:51,233 --> 00:02:53,193

and maybe we can also get into the chat the link.

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00:02:53,193 --> 00:02:55,253

<https://www.jsonline.com/story/news/local/2023/02/24/why-immigrant-women-face-an-increased-risk-of-domestic-violence/69903721007/>

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00:02:55,254 --> 00:03:01,566

There was an extensive article in yesterday's main newspaper here in Wisconsin,

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00:03:01,566 --> 00:03:09,099

the Milwaukee Journal Sentinel about this project that we happen to be working on.

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00:03:09,100 --> 00:03:15,400

Before we begin, I think it's just very important for us to note that transnational marriage

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00:03:15,400 --> 00:03:22,433

abandonment has actually been happening for many decades. It's not a new issue.

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00:03:22,433 --> 00:03:25,733

However, very few have really been able to give it a name,

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00:03:25,733 --> 00:03:31,374

and it definitely has not been something on the radar of the legal system.

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00:03:31,374 --> 00:03:39,499

And so, we are really working on and building on the work done by other organizations.

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00:03:39,500 --> 00:03:44,000

We will highlight some of the organizations that have worked on this.

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00:03:44,000 --> 00:03:52,064

I think it's very important to note that this practice is not specific to any religious or ethnic group.

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00:03:52,064 --> 00:03:59,099

Rather, it's based on immigration status, and, as we know, abusers will use whatever tools

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00:03:59,100 --> 00:04:05,800

they have at their disposal. And so, this is a situation where the immigration status

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00:04:05,800 --> 00:04:10,366

of a survivor is used against her.

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00:04:10,366 --> 00:04:19,066

I will be back later on in the presentation, but I'd like to turn it over right now to Kelsey. Thank you.

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00:04:19,066 --> 00:04:23,532

Thank you so much, Janan. Hi, everyone. I'm Kelsey, she/her/hers,

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00:04:23,533 --> 00:04:27,066

and I'm staff attorney for underserved populations at End Abuse.

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00:04:27,066 --> 00:04:33,503

Before we really launch into our content today, I do have a few reminders for us.

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00:04:33,504 --> 00:04:39,999

First, please feel welcome to introduce yourself in the chat, and then please remain muted

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00:04:40,000 --> 00:04:44,004

unless you're speaking during the discussion portion of our event.

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00:04:44,004 --> 00:04:49,154

Likewise, please do save your questions and comments for that discussion period.

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00:04:49,154 --> 00:04:57,034

The informational content of today's event is being [unintelligible] can share this content with others.

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00:04:57,034 --> 00:05:01,033

However, the discussion portion at the end will not be recorded.

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00:05:01,033 --> 00:05:07,484

So, you'll be able to share without worry about your comments or questions being recorded.

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00:05:07,484 --> 00:05:14,533

Finally, we are applying for CLE and Judicial Education Credit. Please update your name to

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00:05:14,533 --> 00:05:21,684

the first and last name that you use to register, so that we can review attendees as necessary for those purposes.

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00:05:21,684 --> 00:05:27,666

Now, today is our first system solutions outreach event, and our goal is to seek

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00:05:27,666 --> 00:05:34,603

your feedback, your input, and your suggestions to address transnational marriage abandonment.

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00:05:34,604 --> 00:05:40,466

We will be using what we learn in today's discussion to further education for legal and policy

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00:05:40,466 --> 00:05:45,393

decision makers, to guide conversations with judges and legislators,

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00:05:45,394 --> 00:05:52,834

and to inform our policy and judicial goals to support these survivors.

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00:05:52,834 --> 00:06:00,404

Today we have 4 topics from our presenters. First, we'll do a brief overview of transnational marriage abandonment

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00:06:00,404 --> 00:06:06,366

to provide us all with a common definition of this type of abuse. Second, we'll hear about some

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00:06:06,366 --> 00:06:11,803

case examples to better illustrate and understand transnational marriage abandonment

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00:06:11,804 --> 00:06:17,254

and we'll hear some examples of these survivors experiences in court.

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00:06:17,254 --> 00:06:24,344

Third, we'll cover legal issues, strategies and gaps that transnational marriage abandonment survivors experience.

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00:06:24,344 --> 00:06:31,993

Fourth, we'll learn about civil versus religious marriages, and how this may impact cases here in Wisconsin,

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00:06:31,994 --> 00:06:37,299

and the fifth item on our agenda is a discussion space where we want to gain your insights

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00:06:37,300 --> 00:06:42,533

on issues, best practices, and solutions for the systems-based legal issues that

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00:06:42,533 --> 00:06:46,724

transnational marriage abandonment survivors encounter.

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00:06:46,724 --> 00:06:51,574

So with that, let's go ahead and dive in.

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00:06:51,574 --> 00:06:57,464

The first thing that I want to do today is provide a working definition of transnational marriage abandonment.

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00:06:57,464 --> 00:07:03,354

There's very little legal research on this issue, likely because it's so hidden.

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00:07:03,354 --> 00:07:09,684

It's also hard to find academic research on the issue, because different terms are used to describe it.

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00:07:09,684 --> 00:07:15,533

Despite that there's a lot of advocacy for these survivors from agencies nationally and globally,

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00:07:15,533 --> 00:07:19,699

and I want to give credit to those agencies for their work identifying this issue

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00:07:19,700 --> 00:07:24,714

and developing information that has been so helpful to our understanding of it.

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00:07:24,714 --> 00:07:29,399

Definitions of transnational marriage abandonment can be gleaned from among advocates,

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00:07:29,400 --> 00:07:33,233

who defined abuse of international marriage, a related form of abuse.

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00:07:33,233 --> 00:07:38,866

And there's also been advocacy and defining of this issue in the Muslim community, in particular,

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00:07:38,866 --> 00:07:43,666

from the Peaceful Families Project, and additionally, advocates in the United Kingdom,

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00:07:43,666 --> 00:07:47,732

in particular, the Southall Black Sisters are pioneering this issue,

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00:07:47,733 --> 00:07:52,694

and have been using the term "Transnational Marriage Abandonment" since 2015.

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00:07:52,694 --> 00:07:56,233

Defining "Transnational Marriage Abandonment" is really the first step to

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00:07:56,233 --> 00:08:02,899

ensuring that we're able to consistently identify this form of abuse and empower survivors.

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00:08:02,900 --> 00:08:10,391

Our working definition of TMA is blended from the definitions that other organizations have created.

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00:08:10,391 --> 00:08:16,233

We can define TMA as a type of abuse where an abuser abandons their spouse in that

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00:08:16,233 --> 00:08:23,699

spouse's country of origin, or another country outside of the US without means to return to the US.

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00:08:23,700 --> 00:08:28,633

You'll see some citations on this slide that can provide you with some additional context.

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00:08:28,633 --> 00:08:34,899

Next, though, I will provide you with a more specific definition from an advocacy organization.

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00:08:34,900 --> 00:08:40,433

The Peaceful Family Project's Guide called "Islamic Marriage Contracts a Resource Guide for

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00:08:40,433 --> 00:08:45,899

Legal Professionals, Advocates, Imams, and Communities" provides a definition

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00:08:45,900 --> 00:08:48,371

of what they term "Abandonment Divorce."

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00:08:48,371 --> 00:08:51,533

An Abandonment Divorce consists of four different subtypes,

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00:08:51,533 --> 00:08:55,666

and the two that are most relevant to the types of transnational marriage abandonment

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00:08:55,666 --> 00:08:59,350

we've observed here in Wisconsin are on this slide.

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00:08:59,351 --> 00:09:04,471

C) A couple residing in the US travels to their country of origin,

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00:09:04,471 --> 00:09:10,311

the man returns to the US leaving his wife behind, often without proper documentation.

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00:09:10,311 --> 00:09:16,033

The husband files for divorce, and the wife often does not contest due to lack of information or

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00:09:16,033 --> 00:09:21,299

misinformation provided by the husband. Due to the lack of information and proper legal

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00:09:21,300 --> 00:09:29,341

representation the wife may lose her right to alimony, child support, and equitable distribution of marital assets.

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00:09:29,341 --> 00:09:36,200

And, yet another example. D) A husband leaves his wife in the US to return to his country of origin (or

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00:09:36,200 --> 00:09:42,880

the country in which their marriage was originally registered) and files for divorce in his wife's absence.

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00:09:42,880 --> 00:09:47,199

The source also says that this is sometimes referred to as the "Marry and Dump Practice,"

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00:09:47,200 --> 00:09:52,100

which is a subtype of abuse of international marriage. Again. That's a type of abuse on

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00:09:52,100 --> 00:09:56,691

which the Hmong community has provided immense advocacy and scholarship.

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00:09:56,691 --> 00:10:02,600

In the examples that we've seen here in Wisconsin, we notice a combination of types C and D,

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00:10:02,600 --> 00:10:07,791

where the husband abandons the survivor spouse in that survivor's country of origin,

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00:10:07,791 --> 00:10:12,166

and the husband may also obtain a divorce in the country where the marriage occurred

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00:10:12,166 --> 00:10:21,110

without the wife's knowledge and without providing her with any notice or opportunity to advocate for herself.

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00:10:21,111 --> 00:10:29,166

So with these definitions in mind, I will go ahead and turn it over to here some case examples.

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00:10:29,166 --> 00:10:33,299

Basema Yasin: Now, good afternoon everyone. For those that joined late, my name is Basema

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00:10:33,300 --> 00:10:38,333

Yasin, coordinator of Our Peaceful Home, and thank you again for joining us.

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00:10:38,333 --> 00:10:44,866

Let me begin by saying that transnational marriage abandonment, as Janan stated, is not a new issue.

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00:10:44,866 --> 00:10:50,966

It has sadly been around for a long time, and again it's not limited to any one religion, culture,

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00:10:50,966 --> 00:10:55,999

educational or economic background. When Our Peaceful Home opened its doors almost 4

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00:10:56,000 --> 00:11:02,300

years ago, we began seeing TMA cases right away, but had not put a name to it.

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00:11:02,300 --> 00:11:07,094

Just as it was with our first case that we want to highlight, which is Noor.

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00:11:07,094 --> 00:11:11,866

I would like to remind everyone that the names have been changed for confidentiality.

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00:11:11,866 --> 00:11:16,766

Also, I would like to state that each one of these cases were very complicated, but for the

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00:11:16,766 --> 00:11:22,299

sake of brevity, we are just summarizing the important facts. But if you have any particular

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00:11:22,300 --> 00:11:27,266

questions, we can discuss those after the presentation, especially given the fact that

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00:11:27,266 --> 00:11:32,266

some of the attorneys that were involved in some of these cases are here with us today,  
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00:11:32,266 --> 00:11:38,933

and I would like to take this time and thank them all publicly for all their outstanding  
work. You know who you are.

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00:11:38,934 --> 00:11:45,766

Case #1 is Noor. Noor's family contacted the local mosque looking for information about their  
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00:11:45,766 --> 00:11:51,699

daughter, whom they have not heard from for almost a year. The mosque contacted us,  
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00:11:51,700 --> 00:11:58,000

and we were able to finally locate Noor. Noor was married overseas to a US Citizen,  
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00:11:58,000 --> 00:12:04,700

and then came to the US and gave birth to 2 US born children. Nora's husband had at first  
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00:12:04,700 --> 00:12:09,200

applied for Noor to become a lawful permanent applied resident, but as tensions grew in the  
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00:12:09,200 --> 00:12:15,614

marriage and abuse became more severe, the husband intentionally missed the interview that is required.  
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00:12:15,614 --> 00:12:21,533

Noor's case is typical of DV relationships where the abuser has most of the power  
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00:12:21,533 --> 00:12:26,799

and likes to control his victim. He never allowed Noor to have any friends, forbade her from  
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00:12:26,800 --> 00:12:31,800

communicating with her family, she was not allowed to drive, learn English, or basically  
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00:12:31,800 --> 00:12:37,800

acquire any skills that would make her more independent. Or, I should say, would make her  
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00:12:37,800 --> 00:12:42,867

less dependent on him, and that is the case in all the cases that we will highlight.

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00:12:42,867 --> 00:12:48,132

When we were able to finally visit Noor, we were shocked at her living conditions.

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00:12:48,133 --> 00:12:55,133

She was living in an empty apartment with her 2 children and only a mattress on the floor and a television set.

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00:12:55,133 --> 00:12:59,999

There was little food in the kitchen, and Noor was desperate for someone to help her.

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00:13:00,000 --> 00:13:05,324

Her situation frankly resembled more that of a trafficking victim.

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00:13:05,324 --> 00:13:11,199

During our first intake session with Noor, she told us that her husband intentionally kept the

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00:13:11,200 --> 00:13:17,000

apartment empty, and barely came to visit her just providing as little food as possible for the children

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00:13:17,000 --> 00:13:23,166

in an attempt to force her to go back home. She said that he had tried many times to force

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00:13:23,166 --> 00:13:29,032

her to go to the airport with him by beating her repeatedly, but that she still would refuse,

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00:13:29,033 --> 00:13:33,833

knowing that his intentions were to take her back home and abandon her there in order to

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00:13:33,833 --> 00:13:42,033

just basically become his mother's caretaker. OPH was able to finally help Noor escape the

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00:13:42,033 --> 00:13:47,566

situation by providing transitional housing, getting a restraining order, and filing for divorce.

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00:13:47,566 --> 00:13:54,532

As far as her immigration status, Noor stayed in a strange limbo type state because her

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00:13:54,533 --> 00:13:59,966

temporary residence card had expired. We did go ahead and apply for a VAWA

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00:13:59,966 --> 00:14:04,524

application for Noor. Her divorce was finally over after a year,

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00:14:04,525 --> 00:14:09,083

and she currently does have full custody and placement of her children.

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00:14:09,084 --> 00:14:16,333

Our second case: Shaheda. Here Shahida's family reached out to us through Facebook Messenger,

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00:14:16,333 --> 00:14:21,466

and just like Noor, they were extremely worried about her because they had not communicated

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00:14:21,466 --> 00:14:26,699

with her for a few months, and the last time they did talk to her she was very ill,

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00:14:26,700 --> 00:14:31,200

and they were simply afraid, quite frankly, that she was dead.

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00:14:31,200 --> 00:14:38,100

Shaheda married a US citizen overseas, came to the US, and eventually gave birth to two US-born children.

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00:14:38,100 --> 00:14:42,541

Unlike Noor, however, Shaheda did become a US citizen.

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00:14:42,541 --> 00:14:47,633

Shortly after Shaheda gave birth to her second child, tensions in the marriage grew,

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00:14:47,633 --> 00:14:52,566

and the husband began talking about going on a family trip to see his family.

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00:14:52,566 --> 00:14:58,670

Shaheda, right away, had an extremely bad feeling about this, but nonetheless acquiesced to the trip.

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00:14:58,671 --> 00:15:06,100

Shortly after arriving to this war-torn nation, the husband takes the older child to a quote

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00:15:06,100 --> 00:15:11,500

unquote birthday party, leaving Shaheda and the baby behind. To make a long story short,

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00:15:11,500 --> 00:15:17,200  
Shaheda then learns that her husband and child are back in the US, and she could not find  
157  
00:15:17,200 --> 00:15:23,221  
her or her child's documents. No IDs, passport, airline tickets, nothing.  
158  
00:15:23,221 --> 00:15:29,111  
It takes Shaheda over 6 years to get her and the baby's US passports back,  
159  
00:15:29,111 --> 00:15:35,001  
and a few more years to save enough money to buy 2 tickets to the US.  
160  
00:15:35,001 --> 00:15:41,500  
The time span of this return did become an issue in the US Courts, and we can talk a little  
161  
00:15:41,500 --> 00:15:46,733  
bit more about that in the discussion section. But, I just want everyone to know that in some  
162  
00:15:46,733 --> 00:15:54,133  
nations, it is not easy to get a hold of a US Embassy/US Consulate, so it did take a very  
163  
00:15:54,133 --> 00:16:01,099  
long time for Shaheda to get any kind of documentations to prove who she was in the first place and her child,  
164  
00:16:01,100 --> 00:16:08,466  
and then ultimately seek help from somebody that helped her contact a US Embassy and get her passport back,  
165  
00:16:08,466 --> 00:16:16,180  
and then save enough money to even buy a ticket to come to the US. which can add up to thousands of dollars.  
166  
00:16:16,181 --> 00:16:22,466  
After Shaheda finally returned to her original home in the US where her husband and all  
167  
00:16:22,466 --> 00:16:28,599  
their child still resided, to the surprise of no one, violence quickly ensued, and the police  
168  
00:16:28,600 --> 00:16:35,266  
were called several times to that home. When Our Peaceful Home was finally able to make contact with Shaheda,

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00:16:35,266 --> 00:16:39,177

she was basically trapped in her own home with cameras everywhere.

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00:16:39,177 --> 00:16:43,966

We were able to assist Shaheda just like Noor in getting out of the home,

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00:16:43,966 --> 00:16:49,832

and we assisted in filing a restraining order. It was during the restraining order case that

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00:16:49,833 --> 00:16:55,666

we all learned that there was a divorce decree from overseas. She was served for the first

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00:16:55,666 --> 00:17:02,699

first time ever with that divorce decree during the restraining order hearing. This case is still ongoing.

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00:17:02,700 --> 00:17:11,433

And, the purpose of the foreign divorce decree, as you will hear later on, is basically for the

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00:17:11,433 --> 00:17:20,066

husband to have to avoid paying maintenance and any property divisions that would be her right in a US Family Court.

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00:17:20,066 --> 00:17:22,966

I will note that we have three more cases to highlight,

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00:17:22,966 --> 00:17:29,257

but I promise I will be a bit quicker since you will already notice similar patterns emerging.

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00:17:29,257 --> 00:17:36,299

Randa was referred to us by her primary care physician. Her case is actually very similar to Shaheda's.

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00:17:36,300 --> 00:17:42,900

She married a US citizen overseas, came to US, had children, stayed together for a reasonably

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00:17:42,900 --> 00:17:49,333

long time, over 4 years, problems in the marriage increased the relationship became abusive,

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00:17:49,333 --> 00:17:55,147

and then, in an attempt quote unquote to save the marriage, they took a family vacation overseas.

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00:17:55,147 --> 00:18:01,099

Again, just like Shaheda, the husband takes all the children back to the US and abandoned

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00:18:01,100 --> 00:18:07,967

Randa in that country with no legal documents,  
no ID, no passport, airline tickets, same situation. Nothing.

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00:18:07,967 --> 00:18:14,999

Now unlike Shaheda, luckily Rhonda was able to get her US passport back in just a few

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00:18:15,000 --> 00:18:19,966

months, and acquired a ticket to buy a ticket to come back to Wisconsin.

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00:18:19,966 --> 00:18:25,966

When Rhonda attempted to enter her own family residence, the husband called the police

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00:18:25,966 --> 00:18:31,632

and presented them with a foreign divorce decree claiming that they are already divorced,

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00:18:31,633 --> 00:18:35,167

and she and this was no longer her home to enter.

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00:18:35,167 --> 00:18:40,799

So, he kept the children away from her, and the police basically told Randa to take the matter

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00:18:40,800 --> 00:18:47,557

to family court that this was not in their jurisdiction. This case, again, is still pending.

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00:18:47,557 --> 00:18:57,617

Okay, our last 2 cases 4 and 5. These 2 cases are a bit different in that the victims are still currently trapped overseas.

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00:18:57,617 --> 00:19:02,366

Halima reached out to OPH through Facebook Messenger in a desperate attempt to

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00:19:02,366 --> 00:19:07,307

reach her child, whom she had not seen or heard from for a few months.

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00:19:07,307 --> 00:19:14,399

Halima had come to the US Under a Visitor's VISA, met her husband, and get married in the US.

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00:19:14,400 --> 00:19:19,333

She gave birth to a US-born child, and after a few violent episodes where the police were

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00:19:19,333 --> 00:19:28,999

called, both Halima and her husband agreed that it was best for her and the child to return to live with her family overseas.

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00:19:29,000 --> 00:19:35,100

Once again, you have to remember that all of these ladies did not have any family here in the US.

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00:19:35,100 --> 00:19:42,266

So, Halima agreed to return to live with her family. Halima and the child lived together for

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00:19:42,266 --> 00:19:47,877

over 4 years, and the husband and father of the child would visit regularly.

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00:19:47,877 --> 00:19:53,699

And again, as we heard in the previous cases, Halima was persuaded to take a family

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00:19:53,700 --> 00:20:00,357

vacation to a third nation in order for the paternal grandmother to see the child. That was the excuse.

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00:20:00,357 --> 00:20:06,499

After less than a week in this third nation, Halima awoke in the hotel room all alone.

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00:20:06,500 --> 00:20:11,766

Everyone was gone including her child and all of Halima's belongings.

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00:20:11,766 --> 00:20:15,332

Again, no passport, no tickets, no documents, nothing.

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00:20:15,333 --> 00:20:20,197

It's noteworthy to state that Halima strongly believes that she was drugged.

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00:20:20,197 --> 00:20:26,832

Halima quickly notified the local authorities, but was told that if the child left with her biological

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00:20:26,833 --> 00:20:29,327

father then there was no crime committed.

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00:20:29,327 --> 00:20:35,566

This is when Halima finally realized that coming to this particular nation was the plan all along,

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00:20:35,566 --> 00:20:42,299

since the father could never have left her country with the child, because her nation

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00:20:42,300 --> 00:20:48,817

required the authorization of both parents for any child to leave the country.

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00:20:48,817 --> 00:20:55,232

Halima quickly tried to seek help from the US Embassy wanting to return to the US as quickly

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00:20:55,233 --> 00:21:01,766

as she can to follow her child, but was shocked to learn that there was a 10-year block on her

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00:21:01,766 --> 00:21:07,832

VISA for having overstayed her original Visitor's VISA. Meaning when Halima got married in the

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00:21:07,833 --> 00:21:14,933

US, her husband had never applied for her residential status. And again, this case is pending.

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00:21:14,933 --> 00:21:22,333

Our final case Huda. Huda contacted us again through Facebook messenger,

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00:21:22,333 --> 00:21:25,233

and now communicate solely through WhatsApp.

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00:21:25,233 --> 00:21:30,199

Let me just point out as many of you have already noticed, how the advent of social apps

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00:21:30,200 --> 00:21:36,466

have facilitated communications for TMA victims, and this is what I believe can make a

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00:21:36,466 --> 00:21:44,120

huge difference moving forward and educating the victims, and also exposing this issue to a global audience.

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00:21:44,121 --> 00:21:49,666

Huda had been a US citizen and resident of Wisconsin for over 4 years.

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00:21:49,666 --> 00:21:55,699

Once again, Huda's husband convinced her to go overseas with the kids and help take care of

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00:21:55,700 --> 00:21:58,261

his ailing mother for just a few months.

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00:21:58,261 --> 00:22:04,100

While overseas, Huda realized she was pregnant and wanted to return to the US to have her child.

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00:22:04,100 --> 00:22:08,833

Her husband took all her children's passport and returned to the US by himself,

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00:22:08,833 --> 00:22:12,633

and sold the family home, forcing Huda to give birth to the child,

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00:22:12,633 --> 00:22:18,344

and severing basically all contacts with the... with her home here in the US.

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00:22:18,344 --> 00:22:24,399

Huda's husband then refuse to register the baby with the US Embassy, and, as many of you know,

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00:22:24,400 --> 00:22:30,944

the US Embassy does require both parents to be present when registering a newborn or renewing US passport.

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00:22:30,944 --> 00:22:34,966

So, this was clearly an attempt to keep Huda trapped overseas,

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00:22:34,966 --> 00:22:39,923

since no mother would ever leave without her children especially a newborn.

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00:22:39,924 --> 00:22:45,699

OPH was able to assist Huda by contacting her local US Congressman's office,

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00:22:45,700 --> 00:22:50,333

who were able to facilitate an emergency appointment for Huda to speak to

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00:22:50,333 --> 00:22:54,266

someone in the Embassy without the presence of her husband.

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00:22:54,266 --> 00:23:00,332

Let's end on a fairly good note by stating that Huda was able to register that baby and get

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00:23:00,333 --> 00:23:04,233

new US passport and a social security card for her newborn.

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00:23:04,233 --> 00:23:10,866

Huda is actually similar to another two women that we're assisting in other States,

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00:23:10,866 --> 00:23:15,266

so this is really could be the same for two more cases.

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00:23:15,266 --> 00:23:22,066

Our final slide or at least in my section, I will close my section of the presentation by going

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00:23:22,066 --> 00:23:27,232

over some trends that you may have already noticed. But this particular chart comes

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00:23:27,233 --> 00:23:31,987

from the research done by a professor in the University of Lincoln in the UK.

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00:23:31,987 --> 00:23:39,232

I'll begin by noting that the dowry referred to in these slides refers to the Hindu tradition,

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00:23:39,233 --> 00:23:45,366

where the parents of the bride agreed to pay the groom's family for them to marry their daughter,

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00:23:45,366 --> 00:23:52,199

As the chart notes, this can be very problematic, and research has shown, as you can see,

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00:23:52,200 --> 00:24:00,666

that 68% of the violence experience in TMA cases are related to the dowry, but, as Janan

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00:24:00,666 --> 00:24:06,166

will explain later on, the Islamic traditions are a bit different in this case, but the rest of the

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00:24:06,166 --> 00:24:13,332

statistics in these charts does hold similar to our cases that we've seen and gone over.

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00:24:13,333 --> 00:24:20,994

Where it's state that 73% of TMA cases experience physical violence from their husbands and or in-laws.

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00:24:20,994 --> 00:24:26,266

In fact, in Halima's case, she went on to tell us that after she got married,

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00:24:26,266 --> 00:24:32,099

she felt more like a maid to her in-laws who were living with her rather than a wife,

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00:24:32,100 --> 00:24:40,264

and that the in-laws would actually punish her for not doing certain labor tasks, or cooking, or cleaning the house, and so forth.

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00:24:40,264 --> 00:24:46,166

98% of the cases experience isolation as you saw in all of our cases.

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00:24:46,166 --> 00:24:52,999

Again, this is very common in general even DV cases, since the dynamics of power and control

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00:24:53,000 --> 00:24:59,100

rest with the victim being isolated from the people that care about them and the people

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00:24:59,100 --> 00:25:00,954

that are willing to help them.

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00:25:00,954 --> 00:25:08,766

93% experience verbal abuse, and 100% experience coercive control and intimidation

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00:25:08,766 --> 00:25:11,699

as was the case with all of our cases.

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00:25:11,700 --> 00:25:17,466

I will conclude by stating that this is why DV agencies, and particularly culturally specific DV

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00:25:17,466 --> 00:25:23,131

advocates are so important. In all the cases I went through, none were English dominant.

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00:25:23,132 --> 00:25:28,733

In fact, most spoke zero English, and all our communication has been in different languages.

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00:25:28,733 --> 00:25:34,133

It is important for systems people, especially those involved in either family law cases

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00:25:34,133 --> 00:25:40,099

or immigration cases, to be familiar with this issue, and be able to identify a victim

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00:25:40,100 --> 00:25:45,633

when she's in the courtroom and understand these victims and the dynamics involved.

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00:25:45,633 --> 00:25:49,599

We'll talk a little bit more about that towards the end of our presentation.

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00:25:49,600 --> 00:25:53,633

With that spirit, I'm going to turn it over to Janan for our last section.

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00:25:53,633 --> 00:25:57,233

Kelsey Mullins: It's actually me again. We have two sections left.

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00:25:57,233 --> 00:26:03,466

So, as you saw from those case examples, TMA survivors often encounter legal systems

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00:26:03,466 --> 00:26:06,417

that can act as barriers to their empowerment.

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00:26:06,417 --> 00:26:10,266

So, now we'll go ahead and discuss those legal issues in greater depth.

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00:26:10,266 --> 00:26:14,832

There are two primary legal issues that TMA survivors encounter.

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00:26:14,833 --> 00:26:20,466

First, immigration: For survivors who have gotten back to the US, they may still need to

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00:26:20,466 --> 00:26:25,507

obtain permanent status if, for instance, they return on a visitor visa.

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00:26:25,507 --> 00:26:30,766

For survivors who are still stuck in their countries of origin or another country abroad,

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00:26:30,766 --> 00:26:35,666

it's even trickier because they must find a way to re-enter the US in the first place,

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00:26:35,666 --> 00:26:40,467

and that tends to pose both logistical and legal issues.

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00:26:40,467 --> 00:26:44,187

Second, survivors often encounter family law.

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00:26:44,187 --> 00:26:49,266

The survivor typically wants to divorce her user and receive legal custody and physical

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00:26:49,266 --> 00:26:55,637

placement of their children. Both of these goals have proven difficult to accomplish after abandonment.

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00:26:55,637 --> 00:27:01,266

Especially, when an abuser claims that there's already a divorce in another jurisdiction.

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00:27:01,266 --> 00:27:04,699

So we'll go ahead and talk more about immigration.

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00:27:04,700 --> 00:27:10,266

Here, I have three immigration options that may be useful to TMA survivors.

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00:27:10,266 --> 00:27:17,860

I've listed them in order from least to most helpful for a typical case based on what we've observed for survivors in Wisconsin.

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00:27:17,861 --> 00:27:23,100

Of course, the facts of an individual survivors case, as analyzed by a lawyer, would be

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00:27:23,100 --> 00:27:27,621

necessary to select which option is best for that particular survivor.

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00:27:27,621 --> 00:27:33,000

First, a T Visa is intended to protect victims of sex or labor trafficking,

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00:27:33,000 --> 00:27:39,721

and some TMA survivors do experience labor trafficking in particular as part of their victimization in the US.

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00:27:39,721 --> 00:27:44,966

As you heard, an abuser might force a survivor to perform unpaid labor that could be for a

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00:27:44,966 --> 00:27:51,466

family business or unpaid labor in the survivors In-Laws' home. However, one requirement for a

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00:27:51,466 --> 00:27:58,430

T Visa is showing that the immigrant is physically present in the US because of the trafficking.

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00:27:58,431 --> 00:28:03,366

In this case, if a survivor is abandoned abroad, they typically won't be able to satisfy that

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00:28:03,366 --> 00:28:09,799

requirement unless they're able to return to the US to help with the prosecution of the trafficking case,

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00:28:09,800 --> 00:28:15,331

or similar circumstances related to the underlying human trafficking.

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00:28:15,331 --> 00:28:21,966

Now, a second option is a U Visa, which is intended to protect victims of certain specified crimes.

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00:28:21,966 --> 00:28:27,000

Domestic violence and related crimes are often qualifying crimes.

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00:28:27,001 --> 00:28:33,000

However, one requirement for a U Visa is that the immigrant has been helpful, is being helpful,

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00:28:33,000 --> 00:28:38,721

or is likely to be helpful in the investigation or prosecution of the crime.

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00:28:38,721 --> 00:28:44,100

Survivors of TMA, especially those who are already abandoned abroad, are unlikely to

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00:28:44,100 --> 00:28:51,861

have reported the violence they experienced as a crime. As you heard, these survivors are typically very isolated.

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00:28:51,861 --> 00:28:56,200

They wouldn't know to reach out to law enforcement for these issues and might be

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00:28:56,200 --> 00:29:02,566

mistrusting of being able to do so. Additionally, being abandoned abroad could also be a

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00:29:02,566 --> 00:29:06,610

barrier to meeting that helpfulness requirement.

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00:29:06,611 --> 00:29:11,400

The third option on the slide is a VAWA self- petition, which is intended to support

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00:29:11,400 --> 00:29:18,433

immigrants who are abused by US citizen or lawful permanent-resident spouses and certain other family members.

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00:29:18,433 --> 00:29:22,740

But in this case, it's the spousal relationship that's most relevant.

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00:29:22,741 --> 00:29:29,621

The self-petition is meant to protect survivors from relying on their abusers for their immigration status.

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00:29:29,621 --> 00:29:34,566

As you heard in the case examples, there were situations where of abusers had said that

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00:29:34,566 --> 00:29:42,760

they applied for status or intentionally missed interviews to sabotage a survivor's lawful status here in the US.

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00:29:42,761 --> 00:29:48,300

So critically, the VAWA self-petition is meant to protect a survivor from that form of abuse.

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00:29:48,300 --> 00:29:54,433

Additionally, the VAWA self-petition explicitly accounts for those immigrant survivors outside

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00:29:54,433 --> 00:29:59,033

of the United States by stating, when that is the case, the immigrant must show that they are

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00:29:59,033 --> 00:30:04,066



the spouse of a citizen or local permanent resident, who subjected the immigrant or

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00:30:04,066 --> 00:30:08,432

the immigrant's child to battery or extreme cruelty in the US.

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00:30:08,433 --> 00:30:14,910

A VAWA self-petition does need to be filed within 2 years of the end of a qualifying marriage.

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00:30:14,911 --> 00:30:22,841

So, a survivor will want to get an immigration consult right away if the abuser has begun divorce proceedings.

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00:30:22,841 --> 00:30:28,866

As you can see, the VAWA self-petition will fit this the circumstances of most TMA survivors,

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00:30:28,866 --> 00:30:39,070

because we know that the abandonment is typically the culmination of years of other forms of abuse and violence.

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00:30:39,071 --> 00:30:43,900

Because the VAWA self-petition is the most applicable immigration remedy for most

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00:30:43,900 --> 00:30:47,733

TMA survivors, I want to briefly cover its outcomes.

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00:30:47,733 --> 00:30:54,399

If a survivor is able to successfully pursue a VAWA self-petition, the results are work

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00:30:54,400 --> 00:30:57,891

authorization with that VAWA self-petition approval.

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00:30:57,891 --> 00:31:02,733

Some VAWA applicants can actually file for adjustment of status to become a lawful,

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00:31:02,733 --> 00:31:06,900

permanent resident concurrently with the VAWA self-petition itself.

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00:31:06,901 --> 00:31:11,933

However, this concurrent filing would not be available to those who are outside of the US.

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00:31:11,933 --> 00:31:19,199

Additionally, a VAWA self-petition does offer a pathway to naturalize after an applicant has

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00:31:19,200 --> 00:31:23,433

had three years with their lawful permanent resident status.

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00:31:23,433 --> 00:31:30,017

There are options for derivative applicants, in other words, certain family members to gain status, too.

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00:31:30,017 --> 00:31:35,832

So, the VAWA self-petition can provide immense stability for a survivor who has been

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00:31:35,833 --> 00:31:43,366

abandoned abroad, but, as you realize when we discussed those three immigration options

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00:31:43,366 --> 00:31:51,407

and as you heard in the case examples, there are many gaps even in the measures that are intended to protect survivors.

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00:31:51,407 --> 00:31:56,866

TMA survivors, in particular, will face increased barriers when pursuing any of the measures

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00:31:56,866 --> 00:32:03,727

we talked about. For example, TMA survivors are unlikely to have reported their abuser.

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00:32:03,727 --> 00:32:08,566

Likewise, few TMA survivors will have proof of the domestic violence they experienced

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00:32:08,566 --> 00:32:12,847

especially once they're abandoned outside the US.

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00:32:12,847 --> 00:32:18,766

Additionally, unfortunately, that abandonment itself, which we view as a form of domestic violence,

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00:32:18,766 --> 00:32:28,077

is unlikely to fall under definitions of domestic abuse or other crimes that would create the basis for relief by itself.

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00:32:28,077 --> 00:32:33,099

And then, finally, TMA survivors may not even have proof of the marital relationship and

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00:32:33,100 --> 00:32:38,666

cohabitation that's required for a VAWA self-petition. This is because an abuser is likely to  
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00:32:38,666 --> 00:32:44,632

keep all assets in his name alone as part of maintaining that power and control.

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00:32:44,633 --> 00:32:50,733

The abuser likely didn't share important information with the survivor, so that she could access proof later.

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00:32:50,733 --> 00:32:58,014

So, these issues pop up often in the immigration cases that we've seen.

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00:32:58,014 --> 00:33:04,466

Now, I do want to share a legal success story. This case comes out of the UK where a

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00:33:04,466 --> 00:33:12,303

survivor was abandoned in Pakistan after years of abuse by her UK citizen husband while in the UK.

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00:33:12,304 --> 00:33:17,599

After she was abandoned back in Pakistan, she applied for a permit under the UK's

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00:33:17,600 --> 00:33:23,604

domestic violence Indefinite Leave to Remain. That's an immigration remedy in the UK.

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00:33:23,604 --> 00:33:29,133

However, that law did not apply to those were outside of the United Kingdom,

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00:33:29,133 --> 00:33:34,399

and so her application was denied. The survivor took this case to appeal, and it was

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00:33:34,400 --> 00:33:39,366

determined after hearing from advocates about transnational marriage abandonment that the

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00:33:39,366 --> 00:33:45,732

law could not make a distinction based on the survivor being in the UK versus outside of the

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00:33:45,733 --> 00:33:52,366

UK because TMA is recognized as a form of domestic violence, and they found that it was a

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00:33:52,366 --> 00:33:57,699

violation of survivors' rights to make a distinction on domestic violence when a

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00:33:57,700 --> 00:34:00,817

survivor was inside versus outside of the United Kingdom.

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00:34:00,817 --> 00:34:06,965

This survivor was able to return to the United Kingdom using this immigration remedy,

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00:34:06,966 --> 00:34:11,299

and, now, this case is precedent in the UK and is garnering a lot of attention there.

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00:34:11,300 --> 00:34:16,666

This type of case is really inspirational for us as we hope to make systems changes for

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00:34:16,666 --> 00:34:21,973

US survivors of transnational marriage abandonment, too.

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00:34:21,974 --> 00:34:27,766

Now, we'll go ahead and turn to family law issues that TMA survivors encounter and some

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00:34:27,766 --> 00:34:34,399

common issues are here on the slide. First, an abuser may claim there was never a marriage.

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00:34:34,400 --> 00:34:41,233

Here, it's important for a lawyer or an advocate to educate the court on civil and religious marriages,

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00:34:41,233 --> 00:34:47,364

and how a marriage was treated in the country where it occurred to prove that it did in fact occur.

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00:34:47,364 --> 00:34:52,166

Similarly, an abuser might claim to have already received a divorce judgment from the

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00:34:52,166 --> 00:34:57,699

country where the marriage occurred. But, this divorce likely granted the abuser sole legal

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00:34:57,700 --> 00:35:03,834

custody, and physical placement of children, and ownership of all the marital assets.

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00:35:03,834 --> 00:35:12,824

Most likely, the survivor wouldn't have received any notice of this divorce, and so it shouldn't be enforced here in Wisconsin.

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00:35:12,824 --> 00:35:17,666

Another issue that comes up is when the survivor struggles to prove domestic violence

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00:35:17,666 --> 00:35:21,966

during the marriage because of the isolation she experienced here in the US,

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00:35:21,966 --> 00:35:28,266

possible fear of law enforcement, and restricted access to community resources.

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00:35:28,266 --> 00:35:35,599

This will impact the way that the court is able to treat the domestic violence for considering custody and physical placement.

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00:35:35,600 --> 00:35:41,333

That makes it crucial to help prepare a survivor to give testimony about her experiences,

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00:35:41,333 --> 00:35:47,066

as well as prepare any evidence she may have, such as photos, messages on WhatsApp,

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00:35:47,066 --> 00:35:50,510

anything that can help substantiate the abuse she experienced.

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00:35:50,511 --> 00:35:55,901

That's going to help the court to consider that factor when determining custody and placement.

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00:35:55,901 --> 00:36:02,066

Likewise, as we talked about with immigration, a survivor can struggle to prove the abandonment itself.

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00:36:02,066 --> 00:36:07,932

This is especially common when the abuser claims the survivor voluntarily left the children,

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00:36:07,933 --> 00:36:14,060

for instance, abusers may claim that the survivor had mental health issues and so just left the family.

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00:36:14,061 --> 00:36:20,233

Or, they may claim that the survivor was unfaithful in the marriage and abandoned them.

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00:36:20,233 --> 00:36:24,766

Here again, it's really important to help the survivor show whatever evidence she may

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00:36:24,766 --> 00:36:29,466

to demonstrate that she did not voluntarily have leave. For example, communications with an

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00:36:29,466 --> 00:36:37,066

advocacy organization, or proof that the survivor was attempting to contact children here in the US.

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00:36:37,066 --> 00:36:41,132

Finally, we've observed some complications due to whether the country of abandonment is

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00:36:41,133 --> 00:36:45,664

a Hague signatory and interpreting the UCCJEA.

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00:36:45,664 --> 00:36:53,504

So with these issues in mind, we'll cover a few statutes that might be useful for judges, lawyers, and advocates.

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00:36:53,504 --> 00:37:01,466

First, we'll discuss some Wisconsin Statutes. Related to that issue of an abuser getting a

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00:37:01,466 --> 00:37:10,099

bogus or foreign divorce decree without notice is Wisconsin statute 767.21(2), Actions in

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00:37:10,100 --> 00:37:15,866

courts of foreign countries. This more or less provides courts that any court of this State may

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00:37:15,866 --> 00:37:22,099

may recognize a judgment from a foreign court if it complies with public policy here in the US

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00:37:22,100 --> 00:37:30,834

and in Wisconsin. However, it also specifies that custody decisions will not be recognized for Wisconsin residents.

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00:37:30,834 --> 00:37:37,203

So if the abusers foreign divorce judgment does relate to child custody, it should not be recognized.

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00:37:37,204 --> 00:37:44,866

If instead, it only pertained to property division and financial matters that may be recognizing.

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00:37:44,866 --> 00:37:49,793

But again, that's assuming that it comports with public policy such as notice.

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00:37:49,794 --> 00:37:56,933

So, if you see a case where a survivor did not have notice of the action in another country that should be a red flag for you.

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00:37:56,933 --> 00:38:03,899

Next, ideally in a TMA divorce, the survivor could invoke Wisconsin's domestic abuse presumption,

Next, ideally in a TMA divorce, the survivor could invoke Wisconsin's domestic abuse presumption,

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00:38:03,900 --> 00:38:12,233

under Wisconsin Statute 767.41(2)(d), which states that if the court finds by preponderance

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00:38:12,233 --> 00:38:17,466

of the evidence that a party has engaged in a pattern or serious incident of interspousal

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00:38:17,466 --> 00:38:22,966

battery or domestic abuse, there is a rebuttable presumption that it is detrimental to the child

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00:38:22,966 --> 00:38:29,653

and contrary to the best interest of the child

to award joint or sole legal custody to that party.

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00:38:29,654 --> 00:38:34,933

This is very important for protecting TMA survivors who face of use throughout the marriage,

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00:38:34,933 --> 00:38:42,566

and that culminated in abandonment. If you see abandonment, that too, can be a clue to

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00:38:42,566 --> 00:38:46,766

look for domestic violence throughout the course of the relationship.

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00:38:46,766 --> 00:38:54,853

We have always seen that the abandonment is the culmination of years of abuse.

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00:38:54,854 --> 00:39:00,284

Now, other legal issues that come up include determining which court has jurisdiction.

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00:39:00,284 --> 00:39:07,466

So, the UCCJEA or Uniform Child Custody Jurisdiction and Enforcement Act addresses  
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00:39:07,466 --> 00:39:11,543

this and it can be found in Chapter 822 of the Wisconsin statutes.  
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00:39:11,544 --> 00:39:18,266

The UCCJEA provides for when foreign judgments are recognized and enforced here in Wisconsin,  
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00:39:18,266 --> 00:39:23,232

including that Wisconsin courts need not recognize judgments from a country,  
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00:39:23,233 --> 00:39:27,466

whose child custody laws violate fundamental principles of human rights.  
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00:39:27,466 --> 00:39:33,732

This means it's important to understand country conditions in the place where a survivor was  
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00:39:33,733 --> 00:39:40,333

abandoned or in a place where an abuser obtained a divorce judgment. Again, custody  
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00:39:40,333 --> 00:39:45,566

decisions for Wisconsin residents shouldn't be recognized when they come from foreign courts.  
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00:39:45,566 --> 00:39:51,266

But, if a whole family was living abroad, and there is a custody order that, too, need not be  
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00:39:51,266 --> 00:39:58,899

recognized if the country's child custody laws are in violation of human rights and our US public policy.  
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00:39:58,900 --> 00:40:03,733

For lawyers and advocates, educating the court on country conditions may be helpful to  
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00:40:03,733 --> 00:40:07,970

obtaining a safe, final order for TMA survivors.  
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00:40:07,970 --> 00:40:13,470

And then, finally, another issue that has come up in cases we've observed is the Hague Convention.  
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00:40:13,470 --> 00:40:19,665

Here, I've included a link of all the Hague signatory countries, because this is something  
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00:40:19,666 --> 00:40:24,566

that judges have been considering when trying to understand abandonment where children  
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00:40:24,566 --> 00:40:26,420

were also left in another country.  
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00:40:26,421 --> 00:40:33,000

So with these issues in mind, we'll dive into the impact of civil versus religious marriages.  
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00:40:33,000 --> 00:40:36,534

Thank you, Kelsey.  
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00:40:36,534 --> 00:40:45,933

I do want to note that here we are focusing specifically on Muslim religious marriages,  
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00:40:45,933 --> 00:40:51,366

because that happens to be our area of expertise. And these are some of the things  
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00:40:51,366 --> 00:40:57,366

that we're seeing how basically the Muslim religious marriages are being misused.  
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00:40:57,366 --> 00:41:06,632

But as we had mentioned at the beginning, that TMA affects a wide range of religious and  
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00:41:06,633 --> 00:41:11,607

ethnic groups, and the common issue here is immigration status.  
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00:41:11,607 --> 00:41:19,532

I do want to note here that some of these slides are from the Peaceful Families Project,  
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00:41:19,533 --> 00:41:26,733

and so we'd like to thank them for kind of leading the way.  
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00:41:26,733 --> 00:41:37,899

An Islamic marriage is a civil contract, and it has a set of a requirements that must take place for it to be valid.  
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00:41:37,900 --> 00:41:45,133

It involves a formal request or offer of marriage,  
and it requires an acceptance of marriage.

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00:41:45,133 --> 00:41:52,666

It requires the signing of the marriage contract in front of 2 witnesses, and it requires the

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00:41:52,666 --> 00:41:56,632

publicizing of the marriage that's usually done through a celebration.

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00:41:56,633 --> 00:42:07,899

The Islamic marriage contract must include a mahr, which is a gift, and this gift is usually a

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00:42:07,900 --> 00:42:16,600

ring, jewelry, money, can be a property. It could be anything of financial value from the groom

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00:42:16,600 --> 00:42:24,133

to the bride to show their seriousness and commitment to the marriage.

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00:42:24,133 --> 00:42:33,566

And so, you'll notice here that in Islamic marriage a mahr or the dowry gift is given from

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00:42:33,566 --> 00:42:35,970

the groom specifically to the bride.

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00:42:35,971 --> 00:42:45,266

You'll find in some of the other traditions, as we had noted, for example, in India where

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00:42:45,266 --> 00:42:52,366

the bride is and her family are required to give a dowry to the groom and his family.

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00:42:52,366 --> 00:42:59,399

In most Islamic marriage contracts, the mahr is divided into two payable options.

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00:42:59,400 --> 00:43:05,666

They do not have to be, but oftentimes there's an immediate, and there's a deferred portion.

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00:43:05,666 --> 00:43:13,032

The immediate part will be the ring, the jewelry or money which allows her to choose whatever

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00:43:13,033 --> 00:43:24,733

she wants, and the deferred mahr is something that she is required to be paid because it's part of the actual Mahr.

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00:43:24,733 --> 00:43:31,899

Whether it's the next day, the next week, the next year, if the bride asks for the the second part,

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00:43:31,900 --> 00:43:38,566

the deferred part of the mahr. It is required that she'd be given that, but definitely, definitely

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00:43:38,566 --> 00:43:47,999

before a divorce occurs. It is considered kind of like a loan that must be paid to the bride before

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00:43:48,000 --> 00:43:56,100

the divorce occurs. Islamic law allows for conditions to be added to the marriage contract.

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00:43:56,100 --> 00:44:05,400

And so, whether that involves that I want to add, for example, the husband will will help me as I complete my PHD studies,

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00:44:05,400 --> 00:44:13,733

or that we agree upon that I will continue to have my career throughout the the marriage.

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00:44:13,733 --> 00:44:22,633

So, keeping in mind that this is a contract that goes back 1,400 years, and it can include

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00:44:22,633 --> 00:44:31,799

certain conditions, and traditionally, Islamic law requires a husband to financially support his wife,

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00:44:31,800 --> 00:44:37,266

and if she chooses to work, traditionally her salary can be solely her own. It is not required

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00:44:37,266 --> 00:44:44,166

of her to support the household or the the children. In this day and age, you find that

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00:44:44,166 --> 00:44:49,266

oftentimes it has changed quite a bit where both of them might work,

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00:44:49,266 --> 00:44:53,566

and both of them might share in the responsibilities of the household.

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00:44:53,566 --> 00:45:00,232

But in traditional Islamic law, this is how it's generally done.

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00:45:00,233 --> 00:45:08,233

There's arrange versus forced marriage, and I think it's very, very important to make clear here.

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00:45:08,233 --> 00:45:14,199

In an arranged marriage, which is actually the most common marriage in the world,

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00:45:14,200 --> 00:45:20,233

more common than just dating and finding your own mate. In an arranged marriage,

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00:45:20,233 --> 00:45:24,894

both the woman and the man consent to the arrangement. There has to be consent.

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00:45:24,894 --> 00:45:30,799

In a forced marriage, one or both of them is coerced into the marriage,

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00:45:30,800 --> 00:45:36,866

and at least one does not give full and free consent. I want to make very, very clear that a

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00:45:36,866 --> 00:45:40,932

forced marriage is not permitted in Islam.

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00:45:40,933 --> 00:45:46,599

It is considered null and void, and so, anytime there is a forced marriage,

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00:45:46,600 --> 00:45:54,333

the female can very easily go to any court in a predominantly Muslim world,

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00:45:54,333 --> 00:46:01,533

and they will immediately consider it null and void because that is not something that is acceptable.

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00:46:01,533 --> 00:46:10,299

People might wonder why it is necessary in the United States to have an Islamic marriage,

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00:46:10,300 --> 00:46:14,566

and why these take place when you can just go and have a civil marriage.

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00:46:14,566 --> 00:46:20,566

It's really no different than many Christians that would like to be married in the church before

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00:46:20,566 --> 00:46:26,166

they get their marriage license, because they consider it to be a sacred thing to do.

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00:46:26,166 --> 00:46:34,423

And so, this is, of course, also type of understanding that many Muslims have.

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00:46:34,424 --> 00:46:41,566

So a non-civil marriage, these types of marriages involve couples that have only a

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00:46:41,566 --> 00:46:47,732

religious or cultural marriage, not a civil marriage. This is problematic.

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00:46:47,733 --> 00:46:53,966

They may sign a religious contract, but do not register for a marriage license through the court system.

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00:46:53,966 --> 00:47:03,132

We want to note here is that in predominantly Muslim countries, the Islamic marriage is the marriage contract.

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00:47:03,133 --> 00:47:10,266

The fact that it doesn't have a lot of details on things like child custody, etc. because this is a

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00:47:10,266 --> 00:47:16,699

marriage contract. This is not a divorce contract or decree, and the way that predominantly

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00:47:16,700 --> 00:47:23,433

Muslim countries function is that there are such rules and guidelines when a marriage takes place,

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00:47:23,433 --> 00:47:30,766

and when a divorce takes place that are not written, but known throughout society,

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00:47:30,766 --> 00:47:36,532

that these are the standards that are followed, and we'll get into some of that a little bit in one of the other slides.

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00:47:36,533 --> 00:47:43,466

What happens here is that if a couple only have a religious contract, and, of course,

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00:47:43,466 --> 00:47:52,899

they don't register for a marriage license to the court system. The female really doesn't have a much opportunity,

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00:47:52,900 --> 00:48:01,733

if her abuser leaves her, or dumps her, or takes everything. And so, it is important in this

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00:48:01,733 --> 00:48:07,399

country to make sure that not only a religious marriage takes place, but also a civil marriage.

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00:48:07,400 --> 00:48:13,958

In the event of divorce, you find that wives are really left with little recourse and no spousal rights.

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00:48:13,958 --> 00:48:13,997

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00:48:13,997 --> 00:48:22,999

You find that there are some people that even practice of polygynous marriages. The legal wife,

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00:48:23,000 --> 00:48:28,566

the one that is registered in the court will have the financial rights. She will have spousal rights,

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00:48:28,566 --> 00:48:34,332

but the non-legal wife will have no recourse through the the court system. It's sort of like

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00:48:34,333 --> 00:48:41,066

having a girlfriend on the side almost. Making it easy for the husband to avoid any financial

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00:48:41,066 --> 00:48:47,899

responsibilities that may have been promised. Many religious and community leaders have

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00:48:47,900 --> 00:48:54,433

caught on to this and how, at times, it is being misused. And so, they have remained

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00:48:54,433 --> 00:49:03,666

consistent in encouraging women to protect their rights by obtaining a civil marriage license before the Islamic marriage.

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00:49:03,666 --> 00:49:13,832

Here in Milwaukee, the largest Islamic centers that runs 3 Islamic mosques, the Islamic Society of Milwaukee.

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00:49:13,833 --> 00:49:21,066

They refuse to conduct any religious marriages until the couple receives a civil marriage

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00:49:21,066 --> 00:49:29,950

and brings the contract to them, and shows that it has, in fact, taken place.

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00:49:29,951 --> 00:49:39,100

So, when we talk about divorce, the dissolution of marriage in Islam, there are 4 general types

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00:49:39,100 --> 00:49:45,862

of marital dissolution. There is the unilateral, which is just plain Talaq, plain divorce.

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00:49:46,001 --> 00:49:57,033

There is the delegated, which is what we will be talking about, or the what's often called a Tafwid.

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00:49:57,033 --> 00:50:05,733

For example, the husband is here, and his wife, let's say, is overseas, and there's a serious

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00:50:05,733 --> 00:50:13,033

reason why he cannot go overseas. Let's say political reasons, whatever the case is,

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00:50:13,033 --> 00:50:22,599

to be able to divorce his wife. What he is required to do is, he is required here to get an

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00:50:22,600 --> 00:50:30,366

affidavit that is with two witnesses, and then send that basically overseas.

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00:50:30,366 --> 00:50:37,199

That is used by the person, who he has delegated. Let's say it's his father.

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00:50:37,200 --> 00:50:45,066

It is a requirement that the wife be informed before he goes to the court to ask for the

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00:50:45,066 --> 00:50:51,199

divorce that your husband has asked you to get a divorce. He has delegated me.

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00:50:51,200 --> 00:50:57,666

Here are the witnesses and the affidavit to prove that. That is taken to the court.

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00:50:57,666 --> 00:51:05,532

Unfortunately, in the cases that we see where people are creating their own kind of ideas

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00:51:05,533 --> 00:51:13,799

of what rules to follow, and many times bringing divorce decrees without the female having even

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00:51:13,800 --> 00:51:20,000

known that she was divorced. That is not acceptable. The female must be informed.

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00:51:20,000 --> 00:51:27,766

There's a third type, which is a wife-initiated, known as Khul, which can be known as where

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00:51:27,766 --> 00:51:35,032

they both agree, so they they don't even really need to go to court. So it's a kind of like a no

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00:51:35,033 --> 00:51:40,599

contest divorce. We will agree between each other, and that's called Khul.

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00:51:40,600 --> 00:51:46,691

There's then the judicial, the Tafriq, where they need to go to in front of a judge.

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00:51:46,691 --> 00:51:54,200

and the judge will determine the the reasons for, you know, the divorce, and will issue the judgment.

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00:51:54,200 --> 00:52:02,800

Now, something to note again, if we're talking about Islamic law or Islamic practices in

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00:52:02,800 --> 00:52:10,333

predominantly Muslim world, custody of the children covers child rearing and guardianship,

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00:52:10,333 --> 00:52:17,799

mothers, unless, for example, they have a what is clearly identified as serious mental illness

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00:52:17,800 --> 00:52:25,233

or something of that sort, they are generally favored to have custody of the children

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00:52:25,233 --> 00:52:32,099

until those children reach puberty. So, until they reach puberty, it is the mother that has them,  
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00:52:32,100 --> 00:52:39,400

and it is the responsibility of the father to pay all expenses for taking care of the the children.  
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00:52:39,400 --> 00:52:48,933

All kinds of guardianship remains with the father, and the father has access to visitation,  
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00:52:48,933 --> 00:52:54,599

of course, with the children. When they reach puberty, the court revisits and determines,  
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00:52:54,600 --> 00:53:00,666

because in Islamic tradition, puberty is when you are generally considered an adult,  
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00:53:00,666 --> 00:53:05,732

and so the children can then determine oftentimes, if they want to remain with the mother,  
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00:53:05,733 --> 00:53:13,133

or if they prefer to live with the father. But the guardianship, until those children are full  
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00:53:13,133 --> 00:53:23,097

adults, and able, and capable of taking care  
of themselves, falls upon the father.  
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00:53:23,097 --> 00:53:30,932

So, when judging Islamic marriage contracts, a primary goal for judges is to ensure the US  
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00:53:30,933 --> 00:53:36,033

Constitution's first amendment, that Congress shall make no law on establishment of religion,  
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00:53:36,033 --> 00:53:44,957

or prohibiting the free exercise thereof is not violated, and that the contract complies with US public policy.  
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00:53:44,957 --> 00:53:50,699

Court rulings on the validity of an Islamic marriage, very depending on whether it is  
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00:53:50,700 --> 00:53:56,866

accompanied by a civil marriage license, and if it has been registered in the US or overseas.

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00:53:56,866 --> 00:54:03,832

The problem that we have witnessed is when some of these women come with an Islamic

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00:54:03,833 --> 00:54:10,166

marriage license, which is a valid license, they don't know the laws of the United States.

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00:54:10,166 --> 00:54:19,766

And so, the husband, sometimes in a form of control will, decide that he's not going to apply for a marriage license,

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00:54:19,766 --> 00:54:25,499

for example. This becomes problematic, because when then there is an actual divorce,

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00:54:25,500 --> 00:54:31,500

and if it takes place in the United States, it appears as if she really was not married,

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00:54:31,500 --> 00:54:37,733

because she does not have a marriage license. We need to keep this in mind that Islamic marriage license,

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00:54:37,733 --> 00:54:44,433

if it was issued overseas, and they have been living together, that this is something that is

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00:54:44,433 --> 00:54:51,899

important. Islamic marriage contracts are most often presented to courts with regard to the

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00:54:51,900 --> 00:54:58,166

Mahr clause, especially in cases where the amount of the mahr is substantial because

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00:54:58,166 --> 00:55:05,232

sometimes the amount of the mahr and that's why it's deferred because maybe the husband

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00:55:05,233 --> 00:55:11,566

at the time of marriage doesn't have that amount. Let's say maybe it's a \$100,000

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00:55:11,566 --> 00:55:22,599

or something of that sort. When a dissolution takes place or a divorce, the mahr must, must be paid.

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00:55:22,600 --> 00:55:28,733

To determine if an Islamic marriage contract stipulation is enforceable, judges need to look

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00:55:28,733 --> 00:55:35,933

for comparisons with US legal principles, and consider precedent and, consult with experts in the field.

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00:55:35,933 --> 00:55:40,499

Some legal and religious experts recommend treating the Islamic marriage contract as a

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00:55:40,500 --> 00:55:46,233

pre-nuptial contract, while others recommend considering the contract as a simple

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00:55:46,233 --> 00:55:52,133

enforceable contract, so that the mahr will serve as a supplement to other legal obligations.

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00:55:52,133 --> 00:56:01,166

Please note I am not an Islamic scholar in any way, shape, or form, but it is my belief that

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00:56:01,166 --> 00:56:06,266

it should be considered as a supplement, because you're going to find that sometimes

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00:56:06,266 --> 00:56:11,966

some of the individuals that are getting divorced maybe they have been married for

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00:56:11,966 --> 00:56:21,866

20-25 years, and the mahr at that time in their country of origin might have been \$200

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00:56:21,866 --> 00:56:29,532

or \$500, because that was significant when you

would compare it. But now, it's really... it's a

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00:56:29,533 --> 00:56:35,566

nominal amount. And these individuals have lived together, built a home, built business,

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00:56:35,566 --> 00:56:41,066

supported each other. And so, if it is going to be considered, it really should be considered

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00:56:41,066 --> 00:56:46,866

as a supplement to all of the other aspects of what will be divided.

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00:56:46,866 --> 00:56:54,032

Too often, we have many of our abusers trying to get away with just paying that mahr and  
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00:56:54,033 --> 00:57:01,866

calling it a done day if they end up deciding to get a divorce in in the United States.

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00:57:01,866 --> 00:57:10,866

This is just a sample of a marriage contract. So, you can see it's really very, very simple.

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00:57:10,866 --> 00:57:20,399

It basically includes where the Imam, or the individual that is doing the marriage certificate,

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00:57:20,400 --> 00:57:27,500

has to sign, and it includes the husband and the wife. It includes the dowry.

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00:57:27,500 --> 00:57:33,100

You'll notice that it says the prompt and the differed, which means what is upfront and then

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00:57:33,100 --> 00:57:40,800

what is to be paid at agreed upon time, and then the signature of both the bride and the

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00:57:40,800 --> 00:57:48,933

groom and then the witnesses. So, you need to have the witnesses for both the groom and the bride sign that.

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00:57:48,933 --> 00:57:53,933

You can extend it a little bit if you have something specific like let's say the woman

this marriage, and she has, you know, an entire, a home, and decides that. Okay, we're we're entering into this marriage and this home, let's say she was married previously, and she has children. This home will remain in my name, and will eventually be given to my children. This will never become part of the marriage property. So these are the kinds of things

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00:57:53,933 --> 00:58:02,099

comes into this marriage, and she has a home and decides that, "Okay, we're entering into this marriage,"

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00:58:02,100 --> 00:58:09,166

let's say she was married previously and she has children, "this home will remain in my name

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00:58:09,166 --> 00:58:14,932

and will eventually be given to my children. This will never become part of the marriage property."

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00:58:14,933 --> 00:58:20,266

These are the kinds of things that can be included in an Islamic Marriage Certificate,

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00:58:20,266 --> 00:58:25,732

but otherwise, it's a very simple certificate.

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00:58:25,733 --> 00:58:33,999

This is an example of an Islamic Divorce, or Talaq, Certification. Again, it's also a relatively simple.

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00:58:34,000 --> 00:58:39,600

It's asking about the divorce. Both individuals have to sign, and one of the things that you will

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00:58:39,600 --> 00:58:48,133

notice at the bottom, where it is specifically says that, "The husband, so and so, has

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00:58:48,133 --> 00:58:54,899

also been reminded of his obligation regarding payment of the Mahr dowry, if applicable, to his

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00:58:54,900 --> 00:59:03,566

former wife." And so the Talaq is not, cannot go through until he has completed that obligation,

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00:59:03,566 --> 00:59:11,466

because that is basically like as if it's it's something that he is responsible for from the beginning.

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00:59:11,466 --> 00:59:14,399

So, he owes it to her from the beginning.

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00:59:14,400 --> 00:59:20,400

And, you notice also that there are witnesses that need to be a present. In the cases that we

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00:59:20,400 --> 00:59:27,833

are seeing, divorce or Talaq certification is presented, and many times there are no

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00:59:27,833 --> 00:59:32,633

witnesses that are even there. But most importantly, the wife has not been informed,

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00:59:32,633 --> 00:59:34,299

and that does not make it valid.

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00:59:34,300 --> 00:59:36,633

I think we're back to Kelsey.

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00:59:36,633 --> 00:59:42,099

Thank you, Janan. So, we are getting ready to dive into our discussion session today.

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00:59:42,100 --> 00:59:46,033

But first I want to talk about a few resources.

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00:59:46,033 --> 00:59:50,966

As we've mentioned, there are many organizations that work with transnational

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marriage abandonment survivors. On this slide, we've provided links to just some organizations

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that are also engaged in systems advocacy on TMA, such as writing about this issue.

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01:00:03,166 --> 01:00:08,032

If you are here today and you work at another organization working on this issue, please feel

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01:00:08,033 --> 01:00:14,099

welcome to contact me so that we can include you in this list. We will be sending the slides out

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01:00:14,100 --> 01:00:20,433

to all of our participants today, so that you can refer back to these.

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01:00:20,433 --> 01:00:24,999

Now, if you're interested in learning more about transnational marriage abandonment in

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Wisconsin, here are some linked citations to a few articles. First, an article I wrote for

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01:00:30,233 --> 01:00:35,866

Wisconsin Lawyer Magazine that was also republished in the Wisconsin Journal of Family Law.

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This article really focuses on the legal implications of transnational marriage

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01:00:40,433 --> 01:00:45,399

abandonment. You can also read an article by Sandra Whitehead in the Wisconsin Muslim

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01:00:45,400 --> 01:00:50,533

Journal that focuses on our advocacy efforts so far.

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And then, just yesterday an article by Sophie Carson was published in the Milwaukee

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Journal Sentinel, and this article does a really great job of overviewing this issue.

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01:01:00,966 --> 01:01:06,066

Again, we'll provide you with the slides, so you'll be able to access links to these articles.

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01:01:06,066 --> 01:01:10,232

Now, with this we'll turn to our discussion portion.