

The Visa Dilemma

By: David Barbour

Young theatre artists, caught in the gears of the US immigration system, take action

In recent issues, we've reported on the pandemic and how it has put virtually the entire industry out of work. What has also become clear is that COVID-19 has exposed ample holes in our social safety net. Consider the case of the See Lighting Foundation, which has sprung up to offer crucial relief to immigrant theatre artists. Founded by the designers Cha See, Kimie Nishikawa, and Rodrigo Muñoz, it is working to address the needs of people who are, cruelly, left to fend for themselves in a moment of national crisis.

See, a native of Manila, graduated from NYU's Tisch School of the Arts—Design Department in 2017; she has quickly established herself as a lighting designer Off Broadway and in regional theatres such as Long Wharf in New Haven and Trinity Rep in Providence, Rhode Island; recently in New York, she contributed a remarkably inventive lighting design to The New Group production of *one in two* at The Signature Theatre, Donja R. Love's drama about black men dealing with HIV, which was easily one of the season's most notable productions.

Nishikawa, a scenic designer, was born in Japan and spent part of her childhood in the US before returning home; she, too, graduated from NYU in 2015 and, since then, her career has followed a trajectory similar to See's. Among her recent work, she designed a chic Chicago town house interior for Loy A Webb's *The Light* at MCC Theater, which earned her an AUDELCO Award nomination. She also designed a stark, wide-ranging scenic environment for Christopher Chen's neo-noir drama *The Headlands*, presented by LCT3, and, among other things, an airport interior, complete with plane, for Jordan E. Cooper's raucous satire *Ain't No Mo'* at the Public Theater.

Both designers are busy, bright young talents and both are well on their way to making significant careers. In March, Nishikawa had Will Eno's new play, *Gnit*, in previews at Theatre for a New Audience in Brooklyn; among other projects, See had *Exception to the Rule*, by the new playwright Dave Harris, about to go into rehearsal at Roundabout Theatre Company. Then the pandemic happened, the theatre community was put into an induced coma, and everyone was out of a job. The situation was, and is, terrible for all theatre professionals, especially the

overwhelming number of freelancers. But See and Nishikawa, as immigrants living in the US on O-1 visas, are in a position for which the term "Kafka nightmare" does not seem too strong.

First off, can they apply for unemployment? "The most nerve-wracking thing is, nobody knows," Nishikawa says. "Even the lawyers say, 'You *might* be okay'." The problem has to do with the "public charge" rule, instituted by the Trump administration. Under it, government rules say, immigrants "classified as likely or liable to become a public charge may be denied visas or permission to enter the country due to their disabilities or lack of economic resources." If you're not working, you run the risk of being labeled a public charge.

In practice, See, Nishikawa, and many others are caught between murkily written laws and an administration that is nakedly hostile to immigrants and non-immigrant status holders. According to the website for CoveyLaw, a Brooklyn-based firm that serves the international arts community, for the purposes of United States Citizenship and Immigration Services, "unemployment does not count as a 'public charge' benefit, so it should not affect a future green card case, nor should it affect a pending change of status or extension of stay petitions, in terms of whether you are likely to become a 'public charge' (i.e., reliant on public benefits)." That's the good news. The bad news? "Under the more subjective Department of State rules, a consular office has the right to deny a visa to an artist who has received unemployment benefits."

In other words, in a national emergency, if you can't find work, you can apply for unemployment, like the rest of America. But if you do, you are, in effect, playing Russian roulette with your immigration status. Otherwise, you are left to get by as best you can.

If this sounds like depraved indifference, there's a reason for that. As See notes, the decision whether to apply for unemployment can be agonizing. "It's almost a test of your conscience because yes, it is not a public charge but who knows what will happen?" she says, adding that, "with the election coming up," it's impossible to tell what sort of executive order might emanate from the White House that might further jeopardize artists living on visas.

Just to make the situation more complicated, the government issues a variety of visas, depending on applicants' circumstances. For example, if you are a holder of an O-1 visa "for individuals of extraordinary ability or achievement," according to CoveyLaw you "technically may have up to a 60-day grace period in which you can find other work, and it might be okay for you to collect unemployment during those 60 days. The catch is that at the end of the 60 days you must discontinue the unemployment benefits, and depending on your specific situation, either (1) have some new work starting, (2) have a new visa petition filed for you, or (3) depart the US." Of course, we are well past the 60-day grace period already, with little or no new theatre work in sight.

It's an agonizing legal catch-22, fed by the current president's paranoid, racist notions of immigrants as disease-bearing parasites who drain the nation's coffers and healthcare resources, offering nothing in return. If this vision is a lie in general, it is even more so in the case of designers like See and Nishikawa, who have already proven their worth.

Theatre people are a resourceful bunch, however, and designers—who, as a group, are typically forced to improvise and come up with original solutions—are, arguably, the cleverest in the bunch. This explains how See, in a moment of despair, found a way to fight back.

says, "I started googling and came up with GoFundMe." With nothing to lose, she created a page on the site titled "Help Immigrant Artists for Theatre." Laughing, she adds, "There was a button to add the names of co-organizers, so I added 20 of my friends. Then I realized I hadn't informed any of them, so I took them off! But, somehow, I left Kimie's name on."



Cha See.

"Somebody had to take action, and Cha did it," Nishikawa says, adding, "I got the message naming me a co-organizer, and I went with it." She was right to do so. "It blew up," See says. "We got \$20,000 in eight days." As we go to press, the site has raised just short of \$33,000.

The next step was to formalize the setup as the See Lighting Foundation. Then See and Nishikawa got together with the costume designer Rodrigo Muñoz, a native of Mexico City and 2019 graduate of NYU who has designed productions at Off Off Broadway's Abrons Arts Center and worked as an assistant designer on the new Broadway revival of *West Side Story*. Muñoz manages the foundation's social media. The team then created a website where you can find the work and profiles of the grantees: "We want donors to know they are the people who are getting the funding," Nishikawa says. Most of them are designers, but there are also directors, stage managers, playwrights, and dramaturgs. They come from Iran, Columbia, China, the UK, Argentina, Japan, the Philippines, Canada, Brazil, Italy, South Africa, Lebanon, and Singapore, among other ports of call. They're also the future of the American theatre, if we play our cards right.



Kimie Nishikawa.

The See Lighting Foundation

Speaking on Zoom, See says, pointing to a piece of furniture, "I was on this couch, an early-career designer, and all my shows had been postponed." Fighting off despair, she

Planning for the future

There's more good news/bad news. On the upside, the foundation has given out \$500 microgrants to 52 designers. But much more is needed, and even so, such monies can only briefly shore up what are highly unstable day-to-day existences. In the long run, this is a situation that needs further addressing, in the courts and halls of Congress.

For the moment, See and Nishikawa have gotten microgrants from Indie Theatre Fund and Wingspace Theatrical Design, as well as commission-based design jobs from Movement Theatre Company, which See co-curated with Clint Ramos and which provide crucial assistance. But bigger problems lurk; as Nishikawa notes, "How do stage managers get work now?" She adds that among the most vulnerable are young designers currently in the US on an OPT (optional practical training visa). "It's for the year after you complete your studies. You can stay for optional training, but it has to be linked to your studies; for example, you can't learn to be a chef. But the application process is getting harder. If you apply for a visa and your OPT year runs out, you can't work. You can stay in the country, but some people are going home because, even if the theatres there are closed, there's the chance of getting an essential job."

And you probably won't be surprised to hear her add, "Since I've graduated, it's become harder to get a visa, especially after the new policy was passed in 2017. Before, when you reapplied, the process was easier, and the fees were cheaper. Now when you reapply, it's like the first time." In other words, the paperwork is onerous and the fees much higher.

With any luck, the clock is ticking on our current chaotic and unjust system of immigration and one hopes that whatever replaces it will be much more welcoming to artists. The truth is, talent comes from where it will, and the free interchange of artists between countries is essential to a thriving cultural scene. It's also true that the continued vitality of the theatre (and opera, dance, and other forms of performance) rely on a steady supply of new faces with new ideas; if we are going to get our theatre back in any state of vitality, it has to work better and more justly than before. Helping these artists out would be a good place to start.

To learn more about the See Lighting Foundation, and to make a donation, go to <https://www.seelightingfoundation.com/>. 