

# CHAPTER 1 -- OVERVIEW OF DOMESTIC VIOLENCE AND BATTERED IMMIGRANT ISSUES

## *Chapter Highlights*

This chapter provides advocates with a detailed explanation of the dynamics of domestic violence in immigrant families. In addition to the information listed below, the chapter includes a question and answer section that dispels some of the common myths about domestic violence and immigrant women. By reviewing this chapter, you will learn more about:

### ❑ **POWER AND CONTROL DYNAMICS USED BY BATTERERS OF IMMIGRANT WOMEN, INCLUDING:**

- ✓ threats related to the immigration status of the victim.
- ✓ economic control exerted over immigrant victims
- ✓ isolating the victim and controlling her activities (such as access to money, friends, family, and medical care).
- ✓ use of cultural tactics (such as preventing the victim from learning English).

### ❑ **THE BARRIERS THAT IMMIGRANT WOMEN FACE TO ACCESSING MAINSTREAM DOMESTIC VIOLENCE SERVICES, INCLUDING:**

- ✓ language barriers between victims and service providers, police officers, and courthouse staff, lack of interpreters and lack of translated documents.
- ✓ fears and misconceptions concerning the police and the U.S. legal system.
- ✓ fear of deportation.
- ✓ cultural issues (such as pressure to keep family matters private and concerns about being able to practice cultural traditions in a shelter setting).
- ✓ religious concerns (including fear of ostracism by their religious community).
- ✓ fears about experiencing racism from justice system personnel and service providers.
- ✓ economic barriers (a battered immigrant's immigration status may limit her ability to find work and live independently of her abuser).
- ✓ fear that the abuser will kidnap their children.

## CHAPTER 1

# OVERVIEW OF DOMESTIC VIOLENCE AND BATTERED IMMIGRANT ISSUES<sup>1</sup>

*by Leslye E. Orloff and Rachel Little*

### INTRODUCTION

Immigrant women arrive to this country alone or with their spouses in the hope of creating a better life for themselves and their children. Many flee political repression, severe poverty, domestic violence, unemployment, or war. In their home countries, they may have faced rape or torture for their political beliefs. They may have been forced into prostitution, state-sponsored sterilization programs, or may have been subjected to female genital mutilation. They may bear physical and psychological scars from this abuse and may still be fighting the effects of post traumatic stress disorder (PTSD).

Crossing the U.S. border can be a harrowing experience as women and children risk being robbed, raped, or detained. Others face possible mistreatment by the U.S. Border Patrol. Once they are in the United States, they may experience discrimination, unemployment, and isolation. Many may fear being caught by the Immigration and Naturalization Services (INS). Immigrant women may also have difficulty obtaining employment in the United States because they lack basic job or language skills. If they are able to find work, they may face low wages, sexual harassment, dangerous working conditions, or long hours because they work "under the table" and their immigration status prevents them from seeking the protection of U.S. labor laws. They may be under considerable pressure to work hard and send money to support their children and other family members back in their home countries.<sup>2</sup>

If immigrant women are married to military personnel or met and married their spouses through an international matchmaking organization, they may be extremely

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<sup>1</sup>Adapted from Leslye E. Orloff & Minty Siu Chung. *Overcoming Cultural Barriers* (1996); Leslye E. Orloff, Deanna Jang, and Catherine Klein. *With No Place to Turn: Improving Legal Advocacy for Battered Immigrant Women*, 29(2) Fam.Law Q.313(1995); Forthcoming ABA Manual - *Training Manual of Battered Immigrant Women Provisions Under the Violence Against Women Act* (1999); AYUDA. *Assisting Battered Immigrant Women and Children Filing Immigration Claims Under the Violence Against Women Act*. 43(3 RD ED.,1996); Mary Ann Dutton. *The Dynamics of Domestic Violence: Understanding the Response from Battered Women*. 9 Fl.B.J. (1994); Deborah Goelman and Roberta Valente. *When Will They Ever Learn? Education to End Domestic Violence: A Law School Report* (ABA 1997).

<sup>2</sup>Chris Hogeland and Karen Rosen. *Dreams Lost, Dreams Found: Undocumented Women In The Land of Opportunity*. Coalition For Immigrant and Refugee Rights and Services. 2-4 (1991).

isolated from their cultures and unable to access traditional sources of support. They may be further stigmatized by the use of the term "mail order bride."<sup>3</sup> Farmworker migrant women live a very transient lifestyle and are often even more isolated. They are generally paid significantly less than men, work very long hours in hazardous conditions, and are often forced to turn over their paychecks to their husbands.<sup>4</sup> These pressures result in very difficult lives for immigrant women, particularly those who are undocumented. If an immigrant woman is trapped in an abusive relationship, these factors make the flight from violence even more problematic. As a result, battered immigrant women are among the most marginalized victims of domestic violence in this country. Through the activism of immigrant survivors of domestic violence and service providers, the domestic violence advocacy community has become more aware of immigrant women's stories and this population's need for accessible domestic violence services.

As a result of this increased awareness of the plight of battered immigrants, this "how to" manual has been created to train battered women's advocates, shelters, and service providers how to offer culturally appropriate and meaningful assistance to battered immigrant and migrant women. Language, culture, social isolation, a lack of understanding about the U.S. legal system, and immigration status are factors that complicate a battered immigrant woman's ability to leave an abusive relationship. Through this manual, advocates will learn how to identify these barriers and work with immigrant women to surmount them. They will further learn how to communicate with battered immigrants in a cross-cultural context.

Moreover, this manual will offer technical assistance on improving shelter accessibility, developing culturally sensitive shelter protocols, networking with existing immigration service providers, and creating effective outreach programs. To work with battered immigrant women, shelter advocates need to become familiar with the special immigration and public benefits laws available to assist battered immigrants. Additionally, they must be able to anticipate the special problems that can arise in family and criminal court cases because of the intersection of family, criminal, and immigration law. To this end, this manual will discuss special considerations when assisting battered immigrants with obtaining protection/restraining orders and preparing Violence Against Women Act (VAWA) and other domestic violence-based immigration cases. It will further explore such issues as the availability of public benefits and protecting battered immigrant clients from being reported to the INS.

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<sup>3</sup>Advocates should not use the term "mail order bride." This term fuels misunderstanding and misjudgment of immigrant women. Advocates should instead use the expression "immigrant women who met their fiances through international matchmaking organizations."

<sup>4</sup>Leslye E. Orloff and Rachel Rodriguez. *Barriers to Domestic Violence Relief and Full Faith and Credit for Immigrant and Migrant Battered Women*. Migrant Clinicians Network. 3 (1997).

The extent to which you can apply this information to the operation of your program will depend on the nature of the immigrant communities in the region that you serve. With large, established immigrant populations, there are usually immigration-based nonprofit agencies, community-based organizations, church groups, and community leadership. This existing base can serve as a valuable support network as you begin to implement training and outreach programs. Where an immigrant community is smaller, transient, or where immigrant women are extremely isolated (as is often the case in rural areas, on military bases, or with women in rural communities who met their husbands through international matchmaking agencies), your efforts to reach these women will be more challenging. Every topic that is discussed in this manual will be approached in a manner that accounts for immigrant women's varying life experiences.

This manual is intended to familiarize you with the dynamics of domestic violence experienced by immigrant women, offer suggestions as to how you can make your agency more accessible to battered immigrant women, and teach you how to use the law most effectively to help this particular population of women. As an advocate, your role in helping battered immigrants overcome barriers to services will be critical and empowering to these often silent victims of domestic violence.

## **THE EXTENT OF DOMESTIC VIOLENCE**

Domestic violence is a societal problem of epidemic proportions. Experts estimate that two to four million American women are battered every year,<sup>5</sup> and that between 3.3 and 10 million children witness violence in their homes.<sup>6</sup> Battering affects families across United States in all socioeconomic, racial, cultural, and ethnic groups.<sup>7</sup> As information about the extent and impact of domestic violence emerges, it has been identified as a criminal justice issue, a public health crisis, and a costly drain on economic productivity.<sup>8</sup>

### **Domestic Violence, Power, and Control Against Immigrants**

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<sup>5</sup>Antonia C. Novello. From *The Surgeon General*. US Public Health Service. 267(23) JAMA 3132 (6/17/92). See also Ronet Bachman. Bureau of Justice Statistics, US Dept of Justice. *Violence Against Women: A National Victimization Survey Report*. iii (1994).

<sup>6</sup>Howard A. Davidson. *The Impact of Domestic Violence on Children; A Report to the President of the American Bar Association*. ABA. 1 (1994).

<sup>7</sup>Mary P. Koss et al. *No Safe Haven: Male Violence Against Women At Home, At Work, and In the Community*. 49-51 (1994)

<sup>8</sup>See e.g., Ted Miller et al. National Institute of Justice. US Dept of Justice. *Victim Costs and Consequences: A New Look*. 18-19 (1996). (Finding that domestic violence costs \$67 billion a year in property damage, medical costs, mental health care, police and fire services, victim services, and lost worker productivity).

Domestic violence is a pattern of behavior that one intimate partner or spouse exerts over another as a means of control. Domestic violence is not defined solely by a specific physical act, but by a combination of psychological, social and familial factors.<sup>9</sup> In some families, perpetrators of domestic violence routinely beat their spouses until they require medical attention. In other families, the physical violence may have occurred in the past. If the latter is the case, perpetrators exert control over their partners simply by looking at them a certain way or by reminding them of prior episodes. Even sporadic violence may still have the effect of controlling the abused partner. Dr. Mary Ann Dutton, a leading clinical psychologist, defines domestic violence as a pattern of interaction in which one intimate partner is forced to change his or her behavior in response to the threats or abuse of the other partner.<sup>10</sup>

As is the case with all battered women, battered immigrants experience physical violence, coercion, threats, intimidation, isolation, destruction of important documents or possessions, and emotional, sexual or economic abuse.<sup>11</sup> Frequently, abusers of immigrant women also use the children to manipulate immigrant victims by:

harming or abducting the children to a foreign country,  
threatening to harm or abduct the children,  
taking money that the immigrant victim was planning to send to support her children and other family members in her home country,  
forcing the children to participate in the abuse of the victim,  
using visitation as an occasion to harass or monitor the victim,  
fighting protracted custody battles to punish the victim,  
raising the immigration status of the victim in custody cases to divert the court's attention away from his violence.<sup>12</sup>

Perpetrators often invent complex rules about what victims or children can or cannot do, and force victims to abide by these frequently changing rules. For example, abusers may limit the amount of times that the victim can leave the house to go to the doctor or the grocery store. Moreover, abusers may inform immigrant women that if they seek the help of the police or the courts, the abuser will automatically gain legal

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<sup>9</sup>Note that within protection order statutes or criminal codes, domestic violence may be defined as the commission of specific physical acts or threats against intimate partners or spouses.

<sup>10</sup>Mary Ann Dutton. *The Dynamics of Domestic Violence: Understanding the Response from Battered Women*. 68(9) Fla.Bar J. 24 (1994).

<sup>11</sup>See Power and Control Wheel Produced by the Domestic Abuse Intervention Project, Duluth, MN.

<sup>12</sup>See e.g., *Kim v. Kim*, 208 Cal. App. 3d 364 (1989).

custody of the children. This may often be the case in the battered immigrant's home country.

Furthermore, abusers of immigrant women use culture and cultural taboos to enhance their control by:<sup>13</sup>

- writing or telling the victim's family lies about her,
- embarrassing her in front of family and friends,
- divulging family secrets,
- causing her or her family to lose face in the community,
- preventing her from meeting with people from her country who speak her native language,
- canceling her subscriptions to newspapers and magazines in her language,
- calling her racist names,
- accusing her of abandoning her culture,
- isolating her from supportive individuals within her cultural community.

Economic control may be exerted by:<sup>14</sup>

- forcing her to work illegally,
- harassing her at work so that she is fired from the only job at which she can legally work,
- preventing her from working,
- stealing the money she is sending to her home country to support her family,
- taking control of the family finances,
- preventing her from learning English and attaining other skills that she needs to secure a job which pays a living wage.

Other tactics abusers use to solidify control over battered immigrants include: controlling the victim's interactions with the English-speaking community, forcing her to sign papers in English that she does not understand, and screening the information, correspondence, and phone calls that she receives (particularly those from family and friends).<sup>15</sup>

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<sup>13</sup>See *Power and Control Tactics Used Against Immigrant Women*. AYUDA, Inc. (no date). Hereinafter AYUDA Power and Control. See also Leti Volpp and Leni Marin. *Working with Battered Immigrant Women: A Handbook to Make Services Accessible*. Family Violence Prevention Fund (no date).

<sup>14</sup>*Ibid.*

<sup>15</sup>See AYUDA Power and Control.

Cases of battered immigrants are ultimately complicated by **their abuser's use of immigration status as a tool of control**. Research on domestic violence conducted among immigrants indicates that immigrant women are very often victims of domestic violence due to vulnerability related to their immigration status.<sup>16</sup> In a survey of immigrant women conducted by Ayuda, 62% of the respondents reported that they were subjected to weekly physical or emotional abuse. Thirty-one percent of respondents reported an increase of abuse with immigration to the United States. Another 9% reported that abuse began with immigration. One-fifth of the respondents reported that their spouses use threats of deportation, of not filing immigration papers, or of withdrawing these papers as a power and control tactic in abusive relationships. One-fourth of the participants stated that fear relating to their immigration status prevented them from leaving the abusive relationship. This survey highlights the relationship between domestic violence and immigration status. It further illustrates some of the specific problems battered immigrant women face in their efforts to stop the violence. Congress relied on this research in deciding to include special protection for battered immigrant women in the Violence Against Women Act (VAWA).<sup>17</sup>

Fears surrounding deportation are often aggravated because abusers convince immigrant victims that they will lose custody and be permanently severed from any relationship with their children through deportation. Abusers believe and often try to prove in custody cases that the victim's lack of lawful immigration status outweighs and shifts the "best interest of the child analysis" toward this unlawful status and away from the abuser's violence. This position is contrary to recommendations from experts on domestic violence and children.<sup>18</sup> Moreover, where the judicial system condones these tactics, battered immigrants are more likely to return to their batterers and subject their children to further effects of domestic violence.<sup>19</sup> If an abuser raises this issue in a custody case, the battered immigrant woman will need the assistance of an attorney who can counter these charges using current evidence from the ABA Report on The Impact of Domestic Violence on Children and other resources.

## Sexual Violence

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<sup>16</sup>See Leslye Orloff and Nomi Dave. *Identifying Barriers: Survey of Immigrant Women and Domestic Violence in the D.C. Metropolitan Area*. Poverty and Race. (July-August 1997).

<sup>17</sup>Memo of behalf of Ayuda, Inc. and the National Network on Behalf of Battered Immigrant Women to Mr. Efrain Hernandez, Assistant General Counsel at the U.S. Immigration and Naturalization Services RE: Public Charge Exemption for Violence Against Women Self-Petitioners.

<sup>18</sup>Howard A. Davidson. *The Impact of Domestic Violence on Children: A Report to the President of the American Bar Association*. ABA. 19 (1994).

<sup>19</sup>*Ibid.* 20.

As in all other domestic violence cases, abusers of immigrant and migrant women use physical and sexual violence as a means of exercising power and control over their intimate partner. Sexual assault frequently occurs in domestic violence cases. This may include forcing a victim to engage in a range of unwanted sexual acts, either through physical force or threats. Sexual abuse can include behavior that may not be criminal, but can cause devastating psychological and physical effects. This could include:

forcing the victim to view or perform in pornographic videos or engage in sexual activity with other persons,  
calling the victim a prostitute,  
informing her that she is required to have sex with him whenever he wants,  
accusing her of sleeping with other men,  
alleging on legal papers that she has a history of prostitution.<sup>20</sup>

## **Psychological Abuse**

Sexual or physical abuse typically coincides with psychological abuse of the victim.<sup>21</sup> In many cases, psychological abuse may occur in a relationship where there is no physical abuse. Abusers of immigrant women often focus on the following psychological tactics:

threatening to harm someone in her family in the United States or in her country of origin,  
hiding or destroying important papers (such as her passport or the children's passports or birth certificates),  
destroying her personal belongings (such as clothes, letters, heirlooms, photos, or other items brought from her home country),  
convincing her that his violent actions are not criminal unless they occur in public,  
telling her that she provoked the violence and is responsible for it,  
accusing her of marrying him only for lawful immigration status and threatening to or actually reporting this to the INS  
blaming her for breaking up their family if she leaves him.<sup>22</sup>

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<sup>20</sup>See *Power and Control Tactics Used Against Immigrant Women*. AYUDA, Inc. (no date).

<sup>21</sup>Psychological abuse is distinguishable from "negative" interactions found in nonviolent relationships; psychological abuse exists when there is a credible threat of violence predicated on the occurrence or knowledge of actual prior violence. Anne Ganley, *Integrating Feminist And Social Learning Analyses of Aggression: Creating Multiple Models for Intervention with Men Who Battered*. *Treating Men Who Batter: Theory, Practice, and Programs*. 196 (P.L. Caesar & L. Kevin Hamberger, ed s., 1989).

<sup>22</sup>See *Power and Control Tactics Used Against Immigrant Women*. AYUDA, Inc. (no date).

## Who are Victims and Perpetrators of Domestic Violence?

Domestic violence crosses ethnic, racial, age, national origin, religious, gender, and socioeconomic lines.<sup>23</sup> The rate of abuse does not vary significantly from culture to culture nor is it based on the country of origin of the victim or the abuser. Studies have shown that the only common traits between victims are that they are being abused by their intimate partners or spouses and that the majority of heterosexual victims are female.<sup>24</sup> Immigrant domestic violence victims come from many socio-economic levels. Not all battered immigrants are from lower socio-economic classes. Immigrant victims may be doctors, business owners, scientists, or child care providers. Perpetrators may be police officers, military personnel, sports heroes, diplomats, or college professors. Unlike victims, perpetrators do have at least two common traits -- the majority of perpetrators witnessed domestic violence in their childhood homes and are male.<sup>25</sup>

Although domestic violence affects persons from all backgrounds, battered immigrant women face even greater obstacles in their efforts to escape violent relationships. Language, culture and immigration status exacerbate the level of violence, block victims from access to information about legal remedies, and complicate their efforts to obtain the relief they need to end the violence. Culture, religion, socio-economic, and immigration status do not determine whether domestic violence will occur, but rather influence what barriers a battered immigrant must confront, what relief she will need to obtain from the legal system or other sources, what should be included in her safety plan, what threats the abuser will use against her, and what excuses the abuser will use in an attempt to justify his violence.<sup>26</sup>

In order to offer battered immigrant women effective assistance through the legal system, attorneys, advocates, police officers, and courts need to allow and encourage battered immigrants to choose when they are ready and when is it safe to leave their batterers. Battered women need to know that the advocate will offer assistance whether or not they choose to leave their abuser or if they choose to reconcile with their abuser. Even when the victim decides not to leave the relationship, she may still

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<sup>23</sup>David M. Zlotnik. *Empowering the Battered Woman: The Use of Criminal Contempt Sanctions to Enforce Civil Protection Orders*. 56 Ohio St.L.J. 1153, 1162-63, 1215 (1995).

<sup>24</sup>Bachman and Saltzman, *supra* note 14, at 4 (finding that women were about 6 times more likely than men to experience violence committed by an intimate).

<sup>25</sup>Gerald T. Hotaling and David B. Sugarman. *An Analysis of Risk Markers in Husband to Wife Violence: The Current Stage of Knowledge*. 1(2) *Violence and Victims*. 101, 106 (1986). Murray A. Straus. *Behind Closed Doors: Violence in the American Family* (1980).

<sup>26</sup>Leslye E. Orloff. *National Conference on Family Violence: Health and Justice*. AMA. 67 (1994).

obtain a civil protection order and advocates should advise her about that option. Battered women who choose to stay should develop a safety plan and be assisted in obtaining protection orders that simply order the abuser to not harass or commit further violence against them. These orders may also require that the abuser participate in a batterers' treatment program. This helps shift the balance of power in their relationship and offers the victim better protection when and if she chooses to leave.<sup>27</sup>

## **BARRIERS IMMIGRANTS MUST OVERCOME WHEN SEEKING HELP TO END ABUSE**

Abusers of immigrant women use the power and control tactics listed above to exert control over a battered immigrant woman's movements, emotions, thoughts, relationships with the outside world, and potentially every aspect of her life. In addition to their abusers' use of violence or coercion, immigrant victims of domestic violence face unique obstacles when obtaining help from domestic violence services providers and protection from the legal system.

### **Language Barriers**

One of most immediate hurdles facing battered immigrants are language barriers that prevent them from obtaining legal or social services. For instance, if the police respond to a domestic violence incident, an immigrant victim of domestic violence who does not speak English may not be able to communicate with the law enforcement officer. The officer may then defer to the abuser because he speaks English and believe the perpetrator's claim that the victim initiated the violence or that nothing happened at all. If an English-speaking child is asked to translate, the child may not tell the officer what really happened out of fear of the abuser. Based solely on language barriers, a police officer may inappropriately arrest a victim, let a perpetrator go who should be arrested, or fail to provide a victim with information about her legal rights. When an arrest is made or a report is taken, language barriers and the use of untrained translators may result in the police officer preparing and filing an inaccurate report. This creates credibility problems for the victim when the police report is introduced during a trial. It may also serve to undermine her already tenuous trust in the police and discourage her from making reports in the future.

Similarly, a battered immigrant may be unable to access other community resources because of language issues. Most courts have only limited access to interpreters and many do not have interpreters readily available at clerks' offices or domestic violence programs in the courthouse. An inability to communicate with court personnel can make the process of seeking help from the legal system even more

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<sup>27</sup>See Leslye E. Orloff. *Effective Advocacy for Domestic Violence Victims; Role of the Nurse-Midwife*. *Journal of Nurse-Midwifery*. 41(6) 490 (Nov-Dec. 1996).

difficult for battered immigrants. Victims may encounter similar frustrations if they attempt to get aid from local domestic violence shelters, crisis hotlines, or social services agencies.

To help address these problems, battered women's advocacy programs should identify social service agencies that work with significant language minority populations in their communities. Advocates should meet with representatives from that agency and should develop agreements under which their staff will assist with interpreting and translating for domestic violence cases that advocates are working on. In exchange battered women's advocates should offer training on domestic violence for social service agency personnel and assistance with battered women in their case loads. In addition, volunteer translators and interpreters can be recruited from local universities and church groups. Social service staff and volunteer interpreters should receive training on domestic violence so that they will be better able to help battered women when called upon to provide translation, interpretation, or other support services. These ideas are further discussed in chapters two through six of this manual, which cover cultural competency training, cross-cultural communication, recruiting bilingual staff, shelter protocols, and outreach.

## **Perception of Law Enforcement and the Legal System**

Battered immigrants may fear that the police or courts will not help them because of experiences with repressive or non-responsive law enforcement and judicial systems in their countries of origin. Victims may fear the police in the United States because of police brutality in their home country, in their local neighborhood, or because they are afraid that the police will report them to INS or take their children away.<sup>28</sup> (See Chapter 13 on Reporting) A recent survey found that nearly 83% of battered immigrants did not contact the police for help despite lengthy histories of domestic violence.<sup>29</sup>

Most immigrant women, even those who have attained lawful permanent residency or become naturalized citizens, are afraid to use and do not understand how our legal system works.<sup>30</sup> Battered immigrants may hesitate to utilize the legal system because they come from countries with different legal procedures or standards for credibility.<sup>31</sup> In these countries, the legal system is often based on a civil law system

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<sup>28</sup>Leslye E. Orloff and Rachel Rodriguez. *Barriers to Domestic Violence Relief and Full Faith and Credit for Immigrant and Migrant Women*. Migrant Clinicians Network. 15 (1997).

<sup>29</sup>Orloff & Dave, survey at 13.

<sup>30</sup>Catherine Klein and Leslye E. Orloff. *Providing Legal Protection for Battered Women: An Analysis of State Statutes and Case Law*. 21 Hofstra L.Rev. 801, 1020 (1993).

<sup>31</sup>Ibid. 801, 1021-22.

where oral testimony is not valid evidence. When oral testimony is taken, it must be corroborated. In some countries, corroboration may only be provided by men. In many other countries, the testimony of a man has more value as a matter of law than testimony provided by a woman. As a result, battered women from such countries could have great difficulty understanding that their testimony has any value in the U.S. legal system.<sup>32</sup> Other battered immigrants may be familiar with a legal system in which money or governmental ties, rather than due process, determine legal outcomes.<sup>33</sup> Battered women who have learned not to expect justice from such legal systems find it difficult to believe that our system will function differently.

Battered immigrants may further distrust the United States legal system as a result of misinformation and lies told by their abusers. For battered immigrant women, the connection between control over legal immigration status and domestic violence is very strong.<sup>34</sup> Abusers may tell the victims that they will never be believed, that they have no legal rights, or that they will be deported if they call the police or go to court. Advocates for battered immigrants should discuss the U.S. legal system with their clients and ease their fears by explaining how the legal system works, that their testimony can be credible evidence, and that legal relief is available for all victims of domestic violence.<sup>35</sup> Advocates should also discuss their track record and experience obtaining protection orders for victims to further alleviate their fears. Finally, offering to take a battered immigrant with the advocate to court prior to her court date can be helpful as well. This experience provides battered immigrants with an opportunity to see how our system works and observe that other battered women do testify and receive favorable court orders from the judge.

## **Fear of Deportation**

One of most powerful threats abusers use against battered immigrants is that of deportation.<sup>36</sup> Abusers frequently threaten to have their partners or spouses deported if they seek any type of help. As a result, many immigrant victims remain silent about

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<sup>32</sup>Leslye E. Orloff. *National Conference on Family Violence: Health and Justice*. AMA. 70 (1994).

<sup>33</sup>United States Commission of Civil Rights. *Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination*. 75 (1993).

<sup>34</sup>Leslye E. Orloff and Rachel Rodriguez. *Barriers to Domestic Violence Relief and Full Faith and Credit for Immigrant and Migrant Battered Women*. Migrant Clinicians Network. 4 (1997).

<sup>35</sup>Leslye E. Orloff, Deanna Jang, and Catherine Klein. *With No Place To Turn: Improving Legal Advocacy for Battered Immigrant Women*. 29 FAM.L.Q. 316 (1995).

<sup>36</sup>Leslye E. Orloff and Nomi Dave. *Identifying Barriers: Survey of Immigrant Women and Domestic Violence in the D.C. Metropolitan Area*. *Poverty and Race*. 6(4) 9-10 (1997). (25% of battered immigrants stated that immigration issues prevented them from leaving their abusers).

the abuse, and refrain from calling the police, going to the hospital, or seeking legal assistance. Regardless of their actual immigration status, victims of domestic violence frequently believe that their abusers can have them deported because that is what their abusers have told them. This may be true even for lawful permanent residents who attained their green card through marriage. Some have been repeatedly told by their abusers that because their abuser helped them get their green card, he can have it taken away. This is untrue. In other cases where the victim is undocumented, the INS may actually carry out the abuser's threats. For example, the INS may act on information supplied by the abuser even if the abuser has contacted INS to punish the victim for pursuing criminal charges or a civil protection order.<sup>37</sup> Battered immigrants who qualify for relief under the Violence Against Women Act (VAWA) can cut off their abuser's ability to influence the outcome of their immigration case. VAWA's confidentiality provisions prevent the INS from relying on information in a self-petitioning case that is supplied by the abuser.

Fear of deportation has dire consequences for battered immigrants, as it may prevent them from getting help to stop the violence. In a survey conducted in San Francisco, 64% of undocumented battered women said that the fear of deportation was the primary reason why they did not seek social services.<sup>38</sup> This hesitation to seek help may lead to a dearth of corroborating evidence about the domestic violence despite the long history of abuse. The victim may not have any medical records, police reports, or protection orders. A lack of documentation of the abuse may then affect a victim's ability to obtain immigration relief, which requires proof of the abuse. (See Chapter 8 on VAWA and Confidentiality issues).

Abusers of battered immigrant women constantly threaten them with deportation if they complain about the abuse, threaten to leave, or threaten to call the police or others for help. If a battered immigrant woman who does find the strength to leave her abuser becomes subject to deportation, her abuser's threats are realized. Battered immigrant women often fear deportation for very legitimate reasons relating to the abuse. They are afraid that they will be ostracized by the abusers' relatives, their own relatives, or community members for cooperating with the prosecution of their batterer.<sup>39</sup> She may face the shame of losing her job and the ability to send money

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<sup>37</sup>See Leslye E. Orloff and Rachel Rodriguez. *Barriers to Domestic Violence Relief and Full Faith and Credit for Immigrant and Migrant Battered Women*. Migrant Clinicians Network. 15 (1997). Violence Against Women Act's immigration confidentiality provisions preclude the Immigration and Naturalization Service from solely relying on information obtained from an abuser to deny immigration benefits to a battered immigrant once she has filed for relief under VAWA or notified INS of her status as a victim of domestic violence. However, the INS does violate this law and it is important that a battered immigrant obtain immigration legal assistance if this occurs.

<sup>38</sup>Chris Hogeland and Karen Rosen. *Dreams Lost, Dreams Found: Undocumented Women in the Land of Opportunity*. Coalition for Immigrant and Refugee Rights and Services. 63 (1991).

<sup>39</sup>Leslye E. Orloff and Minty Siu Chung. *Overcoming Cultural Barriers*. AYUDA, Inc. 4-5 (1996).

home. Moreover, if deported, she may be sent to a country that the abuser can freely travel to and that may not have domestic violence laws. She may also fear that if she reports the abuse, her abuser will be deported and she will lose child support or other economic assistance that he provides. She may love him, value his relationship with their children, depend on him economically, or fear reprisal by him or his family. While for many women the benefits and safety that come with reporting outweigh the risks, each battered immigrant must weigh the pros and cons for herself and make her own choice. She should consult with an immigration expert to understand the potential consequences of her abuser's deportation.

To counter these fears and the abuser's threats, advocates and attorneys should provide battered immigrant women with correct information about whether they face risks of deportation and whether they may qualify for VAWA or other immigration benefits. Advocates should develop relationships with immigration attorneys and experts who can help determine if a client is eligible for VAWA or any other available immigration options. **An advocate should never call the INS (Immigration and Naturalization Service) without first consulting with an immigration lawyer or trained immigration expert.** To identify immigration lawyers and accredited representatives in your area, contact Gail Pendleton at the National Immigration Project of the National Lawyer's Guild at (617) 227-9727 or one of the National Network on Behalf of Battered Immigrant Women groups listed in Chapter 14 of this manual. Advocates also need to help battered immigrant women learn what is considered "domestic violence" and that in our society domestic violence is a crime. Legal, medical and social service professionals are willing to help them stop the violence and with the exception of TANF welfare workers are not required to report undocumented battered immigrants to the INS.

## Cultural Issues

Cultural factors may stop victims from seeking services for domestic violence. A victim may be under pressure from within her own community to remain in an abusive marriage for complex reasons, ranging from cultural mores about the role of women or the sanctity of marriage, to the abuser's powerful standing within the community. Battered immigrants may worry that if they seek help from outside of their community, they will be ostracized by members of their community, which might include all of their family members or friends in the United States.<sup>40</sup> Victims are often under tremendous pressure to keep family matters private. In some cases, immigrant women who speak out against their abusive husbands may be blamed for the violence, lose social respect, and cause uninvolved family members to be ridiculed.<sup>41</sup>

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<sup>40</sup>Leslye Orloff and Minty Siu Chung. *Overcoming Cultural Barriers*. Ayuda, Inc. 3 (1996).

<sup>41</sup>Nadera Shalhoub-Kevorkian. *Tolerating Battering: Invisible Methods of Social Control*. *International Review of Victimology*. 11-12 (1997). See also Leti Volpp and Leni Marin. *Working With*

As a result, many battered immigrants seek solutions to end the violence that do not require them to separate from their abusers. Unfortunately, few domestic violence programs offer assistance with protection orders to battered women who intend to continue living with their abusers. It is extremely important that advocates not blame the victim for her choice to remain with the abuser and offer her needed assistance. Advocates should send a clear message that the victim can seek help from them at any time in the future.<sup>42</sup> They should work with each battered immigrant to help her address each need, fear, or barrier through civil protection orders, safety planning, public benefits assistance, immigration relief, education, and support.

Battered immigrants may also hesitate to seek help if domestic violence programs do not provide culturally or linguistically appropriate services.<sup>43</sup> Victims from immigrant communities may have cultural traditions -- such as eating or sleeping arrangements -- that are very different from the rules imposed by the domestic violence shelter. These cultural factors may discourage battered immigrants from seeking assistance. Those battered immigrants who do attempt to live in shelters often feel alienated, uncomfortable, unwelcome, alone, and afloat without access to culturally familiar surroundings.

Addressing this issue is crucial to reaching battered immigrant women and assuring that they receive effective assistance from shelters and domestic violence programs. This process may include allowing the battered immigrant to prepare food for herself and her children separate from the meals that are prepared for all shelter residents (see Chapter 5 for more information).<sup>44</sup> Additionally, battered immigrants may choose to find alternate housing arrangements apart from battered women's shelters by evicting the abuser from the family home or by living with friends, co-workers, or family members. Advocates should help battered women obtain protection orders to protect the battered immigrant and any third parties who offer her shelter. When battered immigrants seek safe shelter outside of battered women's shelters, advocates should also assist them with accessing ancillary services (e.g., social work services or support groups run by shelter programs).

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*Battered Immigrant Women: A Handbook to Make Services Accessible*. Family Violence Prevention Fund. 13-14 (no date).

<sup>42</sup>Leslye E. Orloff. *National Conference on Family Violence: Health and Justice*. AMA. 67 (1994).

<sup>43</sup>Orloff, *supra* note 7; Holly Maguigan. *Cultural Evidence and Male Violence: Are Feminists and Multiculturalist Reformers on a Collision Course in Criminal Courts?* 70 N.Y.U.L.Rev. 36 (1995); Alice J. Gallin. *The Cultural Defense: Undermining the Policies Against Domestic Violence*. 35 B.C.L.Rev. 723 (1994); Nilda Rimonte. *A Question of Culture: Cultural Approval of Violence Against Women in the Pacific-Asian Community and the Cultural Defense*. 43 Stan.L.Rev. 1311 (1991).

<sup>44</sup>For example, the Asian Women's Shelter in San Francisco stocks six different types of rice to meet the dietary needs of its residents (including short grain, long grain, basmati rice, etc.).

## Religious Issues

Victims from tightly knit religious communities may find that their religious beliefs conflict with standard legal remedies for domestic violence. For example, victims or their family members may have religious beliefs that emphasize the sanctity of the family and prohibit or discourage divorce. In some cases, religious principles may require wives to obtain their husband's permission to divorce him, giving perpetrators an additional means of control.<sup>45</sup> Advocates should work with battered women from these communities to develop creative responses that counter violence but avoid forcing victims to choose between deeply held traditional and spiritual beliefs and much needed legal remedies.

Victims who live in insular religious communities may be afraid to reveal the family violence to service providers outside of their community. They may fear that if they seek outside assistance, members of their community will support the perpetrator, particularly if the religion emphasizes the rights of men to rule their families. When they do disclose the violence to religious leaders, victims often fail to receive support and are told instead that it is their duty to make their marriage work. Battered immigrants who receive such advice are often reluctant to leave their abusers. At the same time, some battered immigrants may prefer to disclose the abuse to people outside of their religious or cultural group as they expect that they may not be judged so harshly. Advocates should work closely with these abuse victims, offering them safety planning and protection orders that do not require the parties to separate. These orders can require that the abuser not molest, assault, harass or commit any threats or acts of violence against his wife, and that he participate in a certified batterers treatment program (see Chapter 9). Advocates can also work with religious leaders by educating them about domestic violence and forming partnerships to assist battered members of their religious communities or congregations.

## The Role of Racism

Battered immigrants from some racial or ethnic minority groups may face additional barriers in obtaining legal relief to end domestic violence. For example, victims may experience racism when they seek services from providers who characterize all men from African or Latin American countries as violent or women of color as more prone to victimization.<sup>46</sup> The history of institutional and individual racism against people of color may lead some victims to avoid the police and the courts

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<sup>45</sup> See e.g., Beverly Horsburgh. *Lifting the Veil of Secrecy: Domestic Violence in the Jewish Community*. 18 Harv. Women's L.J. 171, 193 (1995).

<sup>46</sup> See e.g., Jenny Rivera. *Domestic Violence Against Latinas by Latino Males: An Analysis of Race, National Origin, and Gender Differentials*. 14 B.C. Third World L.J. 231, 234 (1994).

because these entities are part of a system that has traditionally discriminated against them.<sup>47</sup> Battered immigrant women of color may also suffer from the intersection of the effect of racism, gender-based discrimination, and anti-immigrant discrimination.<sup>48</sup> Even if nondiscriminatory services are available, victims may face pressure from within their own communities to endure the violence or to deal with it privately because of allegiance to their community. Women of color may hesitate to contact law enforcement to arrest their batterers because of a pattern of police brutality against members of their community.<sup>49</sup>

Battered women's advocates should invite advocates for battered immigrants to become involved in the domestic violence coalition and domestic violence coordinating council in your state or local community. Advocates from immigrant communities should work together to train justice system personnel, battered women's advocates, and attorneys in your community about the dynamics of domestic violence experienced by battered immigrants. Training should also include information on creative remedies that offer each victim the relief she needs based on her own cultural context. Battered women's and immigrant rights advocates should work with the local domestic violence coalition to identify problem organizations or individuals and to develop strategies for instituting policies and procedures that do not perpetrate racist stereotypes. Joint strategies should be developed in which those persons familiar with cultural and immigration issues can work together with domestic violence experts to counter problems that arise.

## Economic Barriers

While many victims of domestic violence face financial obstacles when they leave their abusers, battered immigrants may have even more severe economic barriers to overcome. Undocumented immigrants may not be able to obtain work authorization. Even those immigrants who are eligible for work authorization based on an approved VAWA self-petition or other means may have lengthy waiting periods before they actually receive this authorization. Battered immigrants who work without authorization are more likely to have low-paying jobs with no benefits or job security. Moreover, immigrants who make a false claim about U.S. citizenship or purchase or

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<sup>47</sup>Linda Ammons. *Mules, Madonnas, Babies, Bathwater, Racial Imagery and Stereotypes: The African-American Woman and The Battered Woman Syndrome*. Wisc.L.Rev. 1003 (1995). Evelyn C. White. *Chain, Change: For Black Women in Abusive Relationships*. 23-26 (1994).

<sup>48</sup>Ammons, *supra* note 93 at 1036; Kimberle Crenshaw. *Cultural Battery*. 25 U.Tol. L.Rev. 891 (1995); Kimberle Crenshaw. *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*. 43 Stan L.Rev. 1241 (1991).

<sup>49</sup>See e.g., Ammons, *supra* note 93; Beth Richie. *Battered Black Women: A Challenge for the Black Community*. *The Black Scholar*. 43 (Mar-Apr 1985).

use false documents in order to obtain employment risk being barred from obtaining lawful permanent residence. As a result, battered immigrants are less able to support themselves and/or their children alone. Even those who have work authorization may have difficulty finding well paying jobs because they often lack child care, transportation, or language capabilities. This inability to obtain decent employment traps many battered immigrants in abusive relationships.

Recent studies indicate that the majority of women who are homeless and/or receive public assistance are currently being abused by their partners or spouses or were formerly abused.<sup>50</sup> Due to changes in welfare laws, however, battered immigrants who do not qualify for relief under VAWA may not be eligible for many types of public assistance that are available to U.S. citizen victims of domestic violence. Some battered immigrants with U.S. citizen or lawful permanent resident children may be able to receive some benefits for their children (See Chapter 11). Nonetheless, lack of access to the economic safety net of public benefits makes it even more difficult for some battered immigrants to flee from abusive relationships. A recent survey supported the need for economic resources for battered immigrants, finding that the primary reason immigrant women remain in abusive relationships is a lack of financial resources.<sup>51</sup>

Under INS regulations and procedures that implemented the 1994 Violence Against Women Act (VAWA), work authorization is available to immigrants who file and have received approved VAWA self-petitions. Work authorization is also available for suspension of deportation and cancellation of removal applicants after deportation or removal proceedings have been initiated. VAWA-eligible battered immigrant women should try to get work authorization as soon as possible in order to be able to support themselves and their children. Beginning to work will also help battered immigrants prove to INS that they are not likely to become a public charge when they are eligible to apply for lawful permanent residence or a "green card." (See Chapters 2, 8, and 11 for more information).

Many undocumented battered immigrant women do work. For these women, being employed can enable them to escape an abusive relationship. Advocates must caution undocumented battered women who plan to work that they must not purchase or use false papers in order to get employment or represent to an employer that they are U.S. citizens. If they commit those acts, they are likely to become ineligible to receive relief under VAWA or any other immigration benefit they may qualify for. They

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<sup>50</sup>Jody Raphael and Richard M. Tolman. *Trapped By Poverty, Trapped By Abuse: New Evidence Documenting the Relationship Between Domestic Violence and Welfare*. Taylor Institute and the University of Michigan Research Development Center on Poverty, Risk, and Mental Health. 5 (4/1/97).

<sup>51</sup>Leslye E. Orloff and Nomi Dave. *Identifying Barriers: Survey of Immigrant Women and Domestic Violence in the D.C. Metropolitan Area*. *Poverty and Race*. 6(4) 10 (1997).

may also be subject to deportation.

## **International Parental Kidnapping**

Abusers with battered immigrant spouses or partners are likely to use the children as a tool of control. They may threaten to abduct the children if the victim leaves the relationship. If abusers have ties to other countries, the potential for international abduction becomes very real. Battered immigrants may decide to remain with their abusers in order to prevent their children from being abducted and taken out of the country. Advocates working with battered immigrants whose abusers are threatening to kidnap their children should take these threats seriously and take legal steps to deter or head off the abuser's kidnapping attempts. (See Chapter 9).

## **COMMON QUESTIONS AND ANSWERS**

### **1) Why don't victims just leave?**

Victims of domestic violence almost always attempt to leave violent relationships. Some victims make repeated attempts to leave. A range of serious obstacles forces some victims to return to their abusers and prevents others from leaving in the first place.

Perpetrators of domestic violence against immigrant spouses or partners frequently threaten to have their partners or spouses deported if they leave or seek help. Until recently, immigration laws gave U.S. citizen or lawful permanent resident spouses control over their spouse's immigration status, even if they were domestic violence perpetrators. This thereby permitted them to exercise control over their victims. While this is no longer true, battered immigrants who believe that their spouses control their immigration status may be afraid to leave for fear of being deported.

Many victims, including battered immigrants, fear that they will be harassed, stalked, or killed if they leave their batterers. These fears are justified, as nearly 30% of female homicide victims are killed by their current or former boyfriends or husbands. A victim's fears in a particular case may be based on the batterer's verbal or physical threats (e.g., "I'll kill you if you leave me"), the batterer's prior behavior (e.g., the violence increased the last time the victim left), or information about the batterer's history (e.g., the batterer was imprisoned for assaulting or killing his former wife).

Battered immigrant victims who have sought and been denied or have received culturally inappropriate assistance from outside sources, such as the police or courts, are more likely to fear retaliation from their batterers. They may believe that the judicial or law enforcement systems cannot protect them. Many victims come from countries

where domestic violence laws do not exist or are not actively enforced. Moreover, women wanting to flee a violent relationship may not know where to turn for effective assistance.<sup>52</sup>

Victims of domestic violence may be unable to leave their abusers because they cannot financially support themselves and/or their children. Since perpetrators often withhold economic resources from victims, victims may not have the means to pay for basic needs on their own such as housing, food, clothing, or medical care. Batterers may forbid victims from working, or force them to turn over their paychecks if they are employed. A lack of savings or limited access to family income traps many victims in abusive relationships.

Additionally, many victims stay in abusive relationships out of concern for their children. Batterers frequently threaten to harm, abduct, or gain custody of the children if victims leave. This can be terrifying for victims whose batterers have ties with foreign countries. Batterers often carry out their threats to abduct the children. Domestic violence underlies a large proportion of the nation's estimated 354,000 yearly abductions.<sup>53</sup> While some victims may be concerned about losing their children, or their ability to care for their children's basic needs if they leave their abusers, others may feel that it is important for the children to live with both parents. Thus, children often bind victims of domestic violence to their abusers.

Victims may feel pressure to remain with their abusers due to cultural or religious mandates that require women to remain with their husbands despite marital problems. Victims who consider leaving may be advised by family members, community members, or clergy to try to work out the marriage. A lack of support from family or community members, combined with inconsistent responses from the legal system, may discourage victims from leaving abusive relationships.

## **2) Don't battered immigrants stay in abusive relationships because they are accustomed to women being treated poorly in their cultures?**

It is critical when presenting information about battered immigrants to avoid cultural stereotyping. In most countries around the world, as in the United States, there are a variety of subcultures and traditions about the roles of women - some are positive and others are oppressive. Battered immigrant women do not remain in abusive relationships because they enjoy the abuse, or because they come from backward cultures in which all women are constantly degraded. Like all victims, battered

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<sup>52</sup>Chris Hogeland and Karen Rosen. *Dreams Lost, Dreams Found: Undocumented Women in the Land of Opportunity*. Coalition for Immigrant and Refugee Rights and Services. 4 (1991).

<sup>53</sup>Linda K. Girdner and Patricia M. Hoff. *Obstacles to the Recovery and Return of Parentally Abducted Children*. Dept of Justice - Office of Juvenile Justice and Delinquency Prevention. 1 (1994).

immigrant women face safety, economic, cultural and psychological pressures when deciding whether to leave their abusers. Immigration laws, language barriers, and a lack of financial resources often create additional obstacles for battered immigrants.

## **CONCLUSION**

To assist immigrant victims of domestic violence, advocates must be educated about the sociological and psychological aspects of domestic violence in immigrant families and the legal ramifications of domestic violence. Without an understanding of the power and control dynamics exercised by batterers of immigrant women, advocates will not be able to address developments such as a victim's concerns about whether or not to pursue criminal charges.<sup>54</sup> Domestic violence advocates and service providers must understand that power and control issues are as central to domestic violence cases involving battered immigrants as these are with all battered women. Advocates can enhance their ability to offer culturally appropriate help to battered immigrants by creating a safe space in which battered immigrant women can talk about their needs, concerns, fears, and the cultural barriers that they must overcome. Only then will advocates be prepared to promote safe, culturally sensitive solutions aimed at ending the violence.

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<sup>54</sup>The Duluth Domestic Violence Intervention Project developed a "Power and Control Wheel" to explain the variety of techniques that the perpetrators use to control victims, including threats, physical violence, intimidation, use of children, and financial abuse, among others.