



It is difficult for any victim of domestic or intimate partner violence to build a safer life. Besides psychological issues and issues of safety and health, women have to build economically viable independent households for themselves and their children. A key tool for women in transitioning to this independence in the United States has been their right to various social welfare programs and subsidies and her right to rely on the legal system for assistance. These rights are assumed in the domestic violence (DV) service delivery system that has developed in the United States. For many of the women who are immigrants to this country and who are not citizens, their lack of access to these citizens' rights severely compromises their ability to easily utilize this model to develop safe and independent lives. In fact, because of this lack of rights along with the act of immigration itself, and/or cultural factors, domestic violence is more prevalent among immigrant women than among U.S. citizen population as a whole. (Family Violence Prevention Fund, no date).

This report looks at the issues related to immigration and social welfare policies that define the rights of non-citizen immigrant battered women as they seek assistance in the United States. While it focuses on immigrants from South Asian countries who are not citizens of the United States (the focus for the research project of which this report is a component) many of its findings are applicable to any abused immigrant who is not a citizen who is seeking services and assistance in the United States. After a brief overview of the system of domestic violence services and government policies that has developed to support abused women,

this report looks at the immigration and social rights of women in various immigrant statuses. Second, it looks at issues that we found related to the immigration, legal and social welfare system that immigrant women face as they seek assistance from the domestic violence service system. Finally, we discuss implications of the research and recommend next policy steps that need to be taken.

### **Methodology**

This report is based on the findings from a collaborative research project between Apna Ghar, a South Asian domestic violence agency, and Loyola University Chicago Center for Urban Research and Learning. This research examined (1) the incidence and the trends of domestic violence involving South Asian<sup>1</sup> women locally, nationally and internationally; (2) the current status of policies and laws impacting immigrant women who access social services; and (3) effective models of service and outreach addressing South Asian women within the context of South Asian immigrant culture and circumstances. This report focuses on the second research q89(r)-0.835anreef

the legal system and/or seek to access social services. In addition, it is informed by the research conducted in other sections of the larger study: a case review of a random sample of 82 Apna Ghar clients; phone interviews with 33 organizations in the United States and Canada serving

citizens. For example in 2000, 60% of the immigrant South Asian women over 18 in Chicago were not citizens (United States Census 2002).

### **The Current Domestic Violence Service and Policy System**

Beginning in the 1970's and growing out of the women's movement of that era, grassroots feminist networks and organizations in the United States started developing at the local level to serve battered women (Roberts, 2002). Shelters were established and community education/awareness campaigns were launched. Policy advocacy was instituted to change and/or develop both social welfare and criminal justice program policies and laws in state and local government to best support and assist these women.

By the 1990's, a strong system to serve battered women and their families had developed in the United States. A model strategy to address violence against women had developed based on provisions of safe shelter and support services (in particular, counseling and legal services) and partnering with the criminal justice system. Two key factors defined this system: the solidarity of women—primarily feminists—in the communities who formed voluntary organizations to support and advocate for the victims, and the civil and social service rights of the women with United States society.

As the system developed and advocacy was successful, the civil and social rights became an even more important aspect of the support system. Many of the networks and organizations developed into mature and professional social service and transitional housing non-profit organizations, often funded by state human service monies. Public

awareness of the plight of battered women became very high. Public assistance policies were modified to increase access to support for victims of domestic violence. In states, such as Illinois, advocates were successful in amending the state criminal law to fully criminalize acts of domestic violence and appropriately punish abusers. Special police

women, on the other hand, a set of policies enacted in 1996—





welfare system due to the 1990 restrictions on immigrant users access to public assistance.

### Family based immigration

Many South Asian women come to the United States under provisions of family-based immigration. They are the wives (or fiancées) of United States citizens or, as in the case of most South Asians, permanent residents. The citizen/residents sponsor the women to come to this country. The important factor here is under the immigration system the sponsor (who is often the abuser) is the person who has the "standing" with the immigration system. He has to be party to the petition that his wife be granted permanent status to be in this country.

The process to permanent status is extended and can easily be manipulated by the abuser. In one of the first waves of anti-immigration legislation, the 1986 Immigration Fraud Amendment increased the difficulty of an immigrating spouse to obtain permanent status. With this law, immigrant women married to U.S. citizens or permanent residents for less than 24 months at the time of residency are granted a "conditional residency" for two years. Within 90 days before this two-year period ends, the couple must file a joint application to have the condition removed, so that the women may obtain permanent residency status. This process gives the spouse a great deal of power. He is the individual who knows the system, and he is the person with legal standing who has to initiate the petition with his wife so that she can obtain permanent status.

## **A lifeline for abused immigrant women: VAWA.**

The Immigration ACT of 1990, the Violence Against Women Act (VAWA) of 1994, and VAWA 2000, all products of rigorous advocacy by women's rights activists, have extended some important rights to immigrant victims of domestic violence. Currently, a victim of domestic violence who is a spouse of a citizen or permanent residents can file on her own for the conditional status. In fact, she can petition without her spouse having knowledge of her action. She can include her undocumented children in her petition. Also, a woman who is not abused can self-petition to become a permanent resident if she is a parent of a battered child abused by the woman's citizen or permanent-resident husband. Also, domestic violence victims have special access to procedures that can reverse deportation decisions and can have special consideration in a number of areas.

### **Access to Social Welfare**

If a person has self-petitioned under VAWA, they can be eligible for some social welfare supports depending on the social welfare rules in

**Table 1: Rights and Immigration Status**

| <b>Status</b> | <b>Immigration System<br/>Rights/Strategies</b> | <b>Access to Social<br/>Welfare Supports</b> |
|---------------|---|--|
|---------------|---|--|

in this country as well. For these individuals there are only three possible strategies. First, they can obtain their own non-immigration

## **Undocumented Status**

**According to attorneys and legal advocates in Illinois, South Asian**

their abuser, a distrust of the American legal and immigration system, and few independent resources thwart women as they seek to escape unsafe situations. In addition, particular United States governmental policies and the implementation of those policies often restrict, and even

got calls from relatives in Indian concern seeking information of about services in the United States for a daughter/niece who had called them about her plight.

### **Manipulation by Abuser**

Advocates report that this lack of understanding of her rights is often a product of the manipulation by her abuser. The abuser manipulates the victim by using his status as the “connector” of the women to the bureaucracies, legal systems, and the larger American society. He is often the individual who speaks the language and/or understands the American system agencies pointed out that in most South Asian cases they see, the women come to this country specially to be married to the resident or citizen, rather than the couple immigrating together. As such, he often actively blocks access to information. A common story told by advocates was one in which the abusers hid immigration documents, passports and other legal papers.

In addition, the women were often threatened with deportation or abandonment by the abuser. Women took these threats seriously, which is not surprising. Every legal advocate recounted at least one case in which the wom had78-s1.48108(o)-1.0628(m)-1.78403( )-0.6068403( )-0.60661891r.

that their children will be taken away from them and custody will be awarded their citizen husbands. In addition, a number of legal advocates cited examples of women whose children were abducted by their spouse. In one case in Chicago, a husband planned a trip to a South Asian country for his wife and children. The husband, a citizen, then abandoned his wife and returned with the children to the United States. The husband had never petitioned for his wife to have permanent resident status and she had no ability to easily return to the United States.



immigrant women avoid the legal system because of negative experiences with the legal system in their native countries. (Orloff, Jang, and Klein, 1995).

In addition, anti-immigrant policies, such as the special registration provisions instituted after 9/11, have impacted victims' willingness to report abuse and increased their vulnerability. A number of providers noted that the process of special registration might also bring up any calls to the police or arrests, which can lead to deportation.

A California agency reported that the Muslim women that they serve reported "horrific" instances of abuse that people endured during months of special registration. Other advocates raised instances of abusers threatening the victims and advocates because of the ramifications of reporting abuse within the context of special registration.

#### **Lack of Access to Legal Representation and Advocacy**

Providers report that because adjudication for rights plays such a strong role in immigrant victims' transition to safety, lack of legal representation or resources especially hampers these victims. They often lack the financial, legal, emotional and social resources needed to successfully maneuver through the maze of regulations and paper work of the immigration system.

At all stages of the immigration process, victims need to have very detailed documentation. This can range from proving validity of marriage to showing hardship and/or danger if returned to country of origin. The most specific resource identified by agencies was legal representation

and assistance with maneuvering through the immigration system.

Legal advocates cautioned that not having representation in immigration adjudication proceedings put women at a disadvantage. A Chicago legal assistance attorney observed: "Huge number of people don't get status because they need legal advocates. They don't know how to get services."

**Government Policies and organizational (implementation**

due to attitudes and/or lack of knowledge—to sympathetically adjudicate cases involving domestic violence. They often approach a case as “another way to commit fraud.”

In addition the United States Citizenship and Immigration Services has lagged in its development, communication, and implementation of new policies that could be very beneficial for immigrant battered women. For example, the rule making process for the U VISA has taken close to four years.

VAWA, even before the adjustment is filed. However, this can take a minimum of six months.

For women who are not eligible for VAWA, the issue is much more difficult. Women who are dependents on non-immigration visas (student or business visas) are not allowed to work. Women who apply for asylum are not allowed to apply for work permits until 180 days after their application for asylum, and it takes another three months before the work permit is likely to be granted. In addition, because of the complexity of applying for asylum, victims often need an extension of time before presenting their petition to a judge. Often when the extension is granted, the right to request for work permit is automatically waived.

#### **Difficulties in Criminal Justice and Family Court System.**

Many immigrant victims have difficulty utilizing the family court and criminal justice system. Four issues in particular predominate: language difficulties; bias toward citizens; lack of understanding of immigration issues by court officials; and increased enforcement of immigration policy by local police.

First, individuals who do not speak English are often at a

in Chicago reported cases in which police and/or judges gave the victim less “weight” because of her immigration status. Many legal observers surmise that the abuser is consciously using immigration status as weapon against his battered spouse or partner (Pendleton, 2003). Again, the case of the wife abandoned after a visit back to South Asia is illustrative. After the wife was finally able to return to the Chicago area on a temporary visa (with some help from sympathetic US Consular officials), she petitioned for custody of her child



A social services advocate who works with South Asian and other immigrant women in Chicago describes a number of cases in which women, going to the Illinois Department of Human Services public assistance office without an advocate were denied benefits. However, when accompanied by an advocate armed with citations of the regulations, the women were able to access benefits. She also reported that women were asked for verification of their abuse, beyond proof that they were a VAWA petitioner. Such verification is not required, but the advocate described, even with her representation, t

maintain an independent household and family, and becoming psychologically empowered. Individuals seek assistance with these tasks from an array of public institutions and community services (see Table 2). Yet many immigrant victims are not able to access these services. Those who are not married to citizens or resident aliens have little ability to find succor due to their lack of citizen --or citizen like—rights. Those who do have rights are often blocked from exercising them because of a lack of knowledge, manipulation by the sponsor/abuser and fear of consequences of interacting with various United States government institutions. In addition, due to the intricacies of policies and serious drawbacks in serving immigrant women by many front line workers and adjudicators, women of whatever status needed skilled advocates to assist them. Social welfare policy retrenchment (read “welfare reform”) has limited the rights for both immigrants and women.

The system of family immigration, in particular, in which the status of an immigrating individual depends on that of a spouse who already has citizenship or permanent immigration status, can exacerbate unequal power between spouses. Many of the issues discussed above lack of knowledge, threats by abusers, perceived lack of standing in custody cases -- all point to increased vulnerability that abused women face within the family immigration system.

While the picture is bleak, it is far from hopeless. American women activists have used their political rights and skills to mute some of the onerous effects of anti-immigration and anti-welfare efforts, providing special programs and exceptions for victims of domestic







## Recommendations

### Knowledge and Resources

- The United States Department of State should be mandated to educate all immigrant women on their rights and resources before immigration to North America.
- Continue development of national networks of immigration attorneys who work on DV issue.

### Institutional Advocacy

- Ensure that all regional immigration office have liaisons or ombudsman on DV.
- Institute more DV/immigrant training and liaisons in local welfare offices.
- Provide training for court staff and officials on issues related to immigrants and family law.

## Expand and Protect Rights

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## References

- Asian & Pacific Islander Institute on Domestic Violence. (2002). TANF Reauthorization and its Effects on Asian and Pacific Islander Families. Retrieved 7/17/2004 from ([www.apiahf.org/apidvinstitute/ResearchAndPolicy/Policypaper.htm](http://www.apiahf.org/apidvinstitute/ResearchAndPolicy/Policypaper.htm)).
- Bernstein, N. (2004). A Visa Case with an Unusual Twist: 9/11. New York Times, September 16<sup>th</sup>, 2004.
- Erez, E. & Cops Hartley, C. (2003). Battered Immigrant Women and the Legal System: A Therapeutic Jurisprudence Perspective. Western Criminology Review, 4(2).
- Erez, E. (2001). "The Victimization of Women in the Context of Transnational Crime." In Ollus and Nevalas (Eds.), Women in the Criminal Justice System: International Examples and National Responses, pp136-146. Helsinki, Finland: European Institute of Crime Prevention and Control.

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Orloff, L.E., Jang, D., & Klein, C.F. (1995). With No Place to Turn: