

A COMPLEX WEB
Access to Justice for Abused
Immigrant Women in New Brunswick*

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ABSTRACT

Forty-eight women from diverse countries of origin participated in six focus groups. All described their social life as deeply rooted in patriarchal structures reflecting systematic patterns of male dominance. Most of them identified the interplay of cultural norms and structural oppression as profound barriers to the justice system for abused immigrant women.

Structural constraints such as language barriers, perceived racism in the criminal justice system and social agencies, and lack of adequate ethnocultural services and representation were identified as disincentives to seeking help in cases of abuse.

Most of the women also stated that a lack of knowledge regarding criminal and civil legal protection in cases of abuse also serves as a disincentive to contacting the justice system.

The paper has recommendations on how to improve access to the criminal justice system and justice-related services as well as on how to improve awareness of socio-legal issues pertaining to women abuse and the criminal justice system.

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In Canada and in other western industrialized countries, legal systems increasingly play a larger and more important role in addressing woman abuse. While there is a substantial body of literature on woman abuse, the needs and experiences of immigrant women have been overlooked (Asbury 1987).

In recognition of the importance of exploring barriers to justice for abused immigrant women residing in predominately rural areas, this study was designed to identify the reasons why abused immigrant women in New Brunswick are reluctant to access the criminal justice system and justice-related services; and to identify, from the perspective of immigrant women, a set of realistic recommendations to make the criminal justice system and justice related services more accessible for abused immigrant women.

For this study, the term “criminal legal system” refers to any of the services, processes, policies, laws, and activities of the police, courts, or the correctional system. The term “civil legal system” refers to any of the services, processes, policies, and activities tied to civil litigation such as access to civil legal aid, a divorce attorney, civil court, etc. The term “justice-related services” refers to those services which are specifically designed to assist abused women, such as battered women’s shelters, counselling services, and support groups, and to those services in the larger community which offer emotional, personal, social, and financial assistance and, as such, play a role in fostering social justice for women.

“Woman abuse” is a very broad term defined differently by various people. Sometimes the terms “family violence,” “wife battering,” “wife assault,” or “domestic violence” are used. We have chosen to use “woman abuse” because women, and in particular immigrant women, can also be abused by other family members when the extended family lives together (Papp 1995). DeKeseredy and Hinch (1991) defined “woman abuse” as any “intentional

physical or psychological assault on a woman by a husband or a male cohabiter.” For this study “woman abuse” is defined as an attempt to control the behaviour of a wife, common-law partner, girlfriend, married daughter, daughter-in-law, married sister, sister-in-law, married female grandchild, and female grandchild-in-law. It is a misuse of power which uses the bond of intimacy, trust, and dependency to make the woman unequal, powerless, and unsafe. It is using force to participate in activities against her will. This abuse can include verbal abuse, psychological/emotional abuse, sexual abuse, financial abuse, spiritual abuse, and physical abuse. It is important to note that some of the abuses described in this definition are violations of the *Criminal Code*, others are not.

Profile of participants

Focus groups were used to explore the issue of justice system access. Forty-eight women from diverse countries of origin participated in six focus groups. These were held in the early spring of 1997 in different locations across New Brunswick, ranging from small towns to larger cities. Of the 48 women who participated in the focus groups, 42 provided us with demographic information. The participants' countries of origin were spread across most of the continents: Africa, South East Asia, the Middle East, Latin America, the Far East, and Europe. Of these 42 women, four were single, one was separated and five were divorced. The remaining women (32) were married; the duration of the marriage ranged from 1.5 years to 30 years. Participants ranged from 17 to 64 years of age with an average age of 39.5 years. While a few women did not have children, the majority of women in the group did.

The size of the communities these women lived in ranged from very rural to urban. The number of citizens in the communities ranged from 300 to 150,000. The range of the family income

of the women was broad—from under \$20,000 to over \$100,000. Most of the participants were well-educated immigrant women who were able to speak English adequately on arrival in Canada. They came because their spouse received employment in New Brunswick. Almost a quarter of these women would not have chosen to come to Canada if they had to do it again. The vast majority of participants worked within their homes and had spouses with professional jobs. Thus, their family income on average was quite high, although some women's family income was very low.

Patriarchal family structure

All the women, no matter what their country of origin, described their social life as deeply rooted in patriarchal structures reflecting systematic patterns of male dominance. Although the patriarchal structures they described have different manifestations and may be strongly interrelated with religious and cultural practices, the overall consensus among the participants was that, for them, life as a woman was structured on patriarchal principles. This is more or less the same for Canadian women, although over the last 20 to 25 years some awareness of the impact of these patriarchal structures on Canadian women has been openly discussed and, in some cases, these structures are being dismantled.

What follows is a list of quotes and descriptions of how some of the women described the gender relations in their society of origin.

"You have to follow him no matter what."

"Husbands are the 'boss' or 'lord.'"

"Men have absolute power in the family."

"A 'good' man has to control his wife."

"She belongs to him."

"His behaviour is never questioned, but her's is."

"If she complains she is a troublemaker."

"Sacrifice, sacrifice, that is the role of girls."

When women find themselves abused in a society that is strongly rooted in patriarchy, they often cannot draw on institutions for help. For example, few of the participants' countries of origin had shelters or social services. In fact, in some countries, the issue of woman abuse is not taken seriously. Thus in many cases, the victim relied on assistance from family, family-in-law, friends, and neighbours.

Family and in-laws

Because abuse is considered a private matter, once an abused woman decides to complain about her situation, the male elders of the family (often the in-law family) are called on to mediate and solve the problem. In many cases, the victim has to deal with the male family members of the abuser. Although the abused victim's story may be believed and the abuser may be reprimanded, obviously this approach does not empower the abused woman. Many participants pointed out that when a woman complains about the conduct of her husband, she runs the risk of being forced out of the house and he may take in another woman.

Furthermore, because of the lack of services for abused women in many countries, if an abused woman leaves her abusive husband, she often has nowhere to go but to return to the family of origin. Even though her family may be sympathetic to the plight of the woman, in many cases the abused woman is not able to stay with her family because she would be too much of a burden. One participant, who, in her country of origin, was severely abused by her husband over a long period fled the situation with her children. Her family housed her and the children for one week only, then she was on her own.

Many women stated that in their country of origin it is not uncommon for neighbours and friends to get involved (invited or uninvited) when a woman is abused. In some cases, friends would be the only source of help and comfort for an abused woman. In short, in many countries and in many ethnic communities, woman abuse is a private matter that is dealt with in an informal manner.

Women as keepers of the family

The women described strong patriarchal societies in which males seem to have absolute power. At the same time, many of these women have been entrusted with the vast and enormous responsibility of keeping the family together and happy. Their job is to be the keeper of the family no matter how the partner's behaviour manifests itself. In this climate, many participants stated that if they complain about abuse, they risk bringing shame to their immediate and extended families. The well-being of the abused woman was often cited as secondary to the image the family presents to the outside world. The fear of shaming the family was a very powerful social control mechanism for many of the research participants. As a keeper of the family, many of the women suggested that they do not have the right to complain to the outside world because the shame is so powerful that it will affect other family members' lives. A woman who brings shame on her family may be resented by her children because the children may see their father as weak: "Dad cannot control his wife." Second, an unmarried sister may have a reduced chance of finding a marriage partner. Thus, if a family is known to have a daughter who is a "troublemaker," her behaviour will have ramifications not only for her own nuclear family but also for her extended family members and her family-in-law. The strong fear of "bringing shame to the family" may inhibit women

from seeking help from shelters, counsellors, and the criminal justice system. Likewise some women stated that the lack of an extended family and, therefore, the reduced fear of “shaming the family,” made it easier to seek help from a shelter or other social services when they need to use such provisions.

As a result of the role of the keeper of the family in patriarchal family structures, abused immigrant women are often reluctant to seek help from social services that may be able to help them, and even less so from the justice system, because many have a deep fear of authority in general and are terrified of the response of the family when they go to “outsiders” for help.

Focus on reconciliation

Divorce is not an option for many immigrant women because of shame, fear, dependency, and religious beliefs. This fear is directly related to the notion that, in many ethnic communities, the interest of the family or community is paramount to the interest of the individual (abused woman). As a result, many abused immigrant women will try to solve the problems through reconciliation.

It is not only the issue of divorce that keeps women in abusive relationships from seeking help. The fear of being alone (divorced or being forced out by an abusive partner) can also be a powerful impediment to seeking help. Several women stated that because of the custom of arranged marriages, they were not used to the concept of dating and they feared that they would never find another husband if they divorced.

A final issue that forces abused immigrant women toward reconciliation is concern for the well-being of the children. Women in general often feel, and are held, deeply responsible for the well-being of their children. Many immigrant women expressed the fear that the divorce of parents is harmful to

children. In fact, divorce, they argued, too often denies the children of their father. As a result, many of the focus group participants felt strongly that no matter what the condition of the marriage, women should not leave the marriage for the sake of the children. "If you love your children, you will not leave." Thus religious, cultural, and maternal beliefs make it extremely difficult, if not impossible, for many immigrant women to leave an abusive relationship.

Immigrant women and structural oppression

Structural barriers also hinder abused immigrant women from seeking help from the justice system. For many immigrant women, particularly those that are abused, uncertainty and/or dependency on their abusive partner concerning their immigration status is a very big barrier to seeking help. A husband will threaten his wife by suggesting that she could be deported if she complains about his behaviour. The women not only expressed fear of deportation for themselves, they were equally afraid that if they contacted the criminal justice system their husbands could be deported.

Another major concern for abused immigrant women was their financial dependency on the abuser. Few immigrant women in our study worked full-time for pay. Those who did work were often employed as part-time workers in low-paying service jobs. This is not a reflection of their education, but more a reflection of the inflexibility of the Canadian government to accredit foreign diplomas, credentials, and degrees, and a reflection of limited job opportunities, particularly in New Brunswick, for immigrant women (Miedema & Nason-Clark 1989).

Although many of the women in the study were able to speak English or French on arrival, they still struggled with language comprehension because of their accents. They complained that,

sometimes, service providers found it difficult to understand them. The women who arrived in Canada with limited English or French language skills experienced more language barriers. For example, some women who had gone to court felt they were not very well represented because the people who represented them did not understand the detailed nuances of their arguments and needs.

A third major structural barrier was the lack of services for abused immigrant women, particularly, in small rural communities. Larger communities tend to have more services and in small rural areas the women may have to travel long distances for services. This assumes that they have access to a car. (New Brunswick does not have a developed public transportation system.)

The existence of an ethnic community is sometimes an obstacle to seeking social services help. On the other hand, the lack of an ethnic community can hinder abused immigrant women from seeking help. Ethnic community members can understand a woman in need and they may share the same mother tongue. This can create a lot of comfort. However, the negative side of belonging to a small ethnic community is that such membership also creates barriers to seeking help within the ethnic community. We were told over and over that immigrant women are often afraid to turn to their own ethnic communities during a time of crisis. They fear that members of their own community will gossip about their situation.

Women may stay in an abusive relationship because they are too afraid of what people are going to say. If a woman leaves an abusive relationship, the ethnic community may not be supportive; in fact it may condemn her for "breaking up the family." As a result, the abused woman may remain quiet and suffer in silence. The woman's fear of her own ethnic community has serious implications for mainstream and criminal justice service

providers who may draw on ethnic community member for knowledge or interpretation. One has to be very careful around this issue. Choosing the wrong person can do more harm than good.

Misunderstandings and the lack of explaining procedures by service providers are also structural barriers faced by many abused immigrant women. For example, many focus group members were familiar with shelters for abused women; however, in many cases their assessment of the shelter staff was negative, the main reason being their personal experiences or the experiences of friends who were shelter residents. Rules and regulations governing a shelter's day-to-day activities were not explained fully to these women. Thus, inadvertently, they would violate some rules and when the shelter staff spoke to them about that they interpreted this as hostility toward them. Few women stated that they had experienced outright racism when seeking help, but some women stated clearly that sometimes service providers "look at you in a certain way."

Gendered legal and justice information needs

Notably, virtually all the immigrant women in the study indicated that on immigration to Canada, they were not provided with information about their legal rights regarding woman abuse nor were they provided with information about the services that one may be able to use in cases of woman abuse. This was the case whether they arrived in Canada 16 years ago or six weeks ago. As several women stated:

I did not know what my rights were around this issue; I learned a lot about them through TV.

I didn't know much. I was so surprised to find that a husband cannot have sex with his wife whenever he wants, that he can't rape her.

Most of the women in the study indicated that they had virtually no working knowledge of such important protections as peace bonds, protection orders, and the like.

A significant number of the women stated that they did not have a full understanding of shelter procedures and regulations. A number of very significant myths were expressed about shelters. For example, one woman stated that shelters would “take away your children.” Many women expressed concern about the fact that there were no shelters in their communities. Travelling to areas where one could find a shelter was cited as a major lifestyle disruption and barrier for abused immigrant women.

Although a woman who is a landed immigrant is protected from deportation if her sponsorship breaks down pursuant to woman abuse, many women in the study did not know this. Fear of losing one's sponsorship appears to be a very formidable barrier to accessing the justice system. Various myths surrounding the consequences of reporting abuse were discussed in the focus groups. One woman stated that she knew of a case where a woman reported the abuse and was deported without her child. As she said, “So she was sent home with no child, and no nothing, so that was the case that scared me too.” To complicate matters, several women indicated that some abusive spouses threatened to withdraw sponsorship if they reported the abuse. Threat of deportation was identified as a means to keep women silent and, as Jang *et al.* argued, it is a “way to maintain power and control over them” (Jang & Merolle Frosh 1990: 2).

There were other misconceptions about sponsorship issues. Some women indicated that they believed their first responsibility was to report the abuse to an immigration officer as opposed to the police. Such beliefs could jeopardize the safety of abused immigrant women.

Closed doors: police as gatekeepers to the justice system

Although the police function as only one possible societal response to woman abuse, they play an important role in such cases in Canada through their role as gatekeepers to the criminal justice system. For victims, witnesses, and defendants, the police often serve as the first point of contact with the criminal justice system, and through their power to refer, arrest, and investigate, influence access to other parts of the criminal justice system and various social service agencies. While police play a significant role in woman abuse cases, most of the women in the study indicated that they would not contact the police if they needed assistance and protection from a violent husband or partner, or would do so only in very extreme cases of physical violence such as threat of death. The reasons cited for this reluctance appeared to be clustered into four areas: cultural beliefs favouring non-intervention on the part of the police; unfamiliarity with police intervention in woman abuse cases; high levels of distrust and fear of police practices and behaviour; and resistance to Canadian mandatory arrest policies.

The belief that violence within the family is essentially a personal matter that should be handled privately within the family was identified by most of the women as the main reason they would not contact the police. As one woman stated, "You can't go around to the police or to court with a family matter or even a quarrel between friends."

In turn, involving the police in such matters would, as several women noted, bring dishonour to their husbands, children, extended family, and to the immigrant community of which they are a part. Protecting the honour and status of one's husband was cited by various women as part of their gender role. As one woman started, "My husband is a very proud man. If I called the police I would hurt his pride and my family's honour." A

woman's sense of loyalty to family was frequently identified as taking precedence over the interests of the abused woman.

Condoning certain levels of violence against women was cited as another factor that favours non-intervention by police. As one woman said, "Wife battery or picking on the woman is considered part of the culture, she cannot complain." Allied with this was the suggestion that, in many countries, a widespread assumption exists that women who are abused often provoke the violence and seem to be capable of tolerating a level of abuse.

Notably, some women described well-developed traditional conflict resolution structures. Describing what she identified as a family court one woman said:

When the wife is abused, usually she goes . . . to her family or to her in-laws, and then, the older members of both families unite and they talk about the situation or a solution for [the couple]. . . . And when they know there's a situation, like the older men are going to gather and invite the husband and ask him what is the problem. And the older women do the same thing with the lady and they always try to have a kind of solution.

Whenever possible, the family was identified as playing a paramount role in the mediation and resolution of woman abuse cases. Police intervention was seen as only a last resort when all other mechanisms had failed and when the abuse was very severe. The abused women "try and tolerate . . . or to overlook things, you know, until it gets that bad [that's] when you come to the law."

Perceptions of the fairness and trustworthiness of any facet of the criminal justice system are thought to influence one's willingness to access and use its services. Notably, many of the women in the study expressed a high level of fear and distrust of the police which appeared to be based, quite significantly, on their perceptions of, and experiences with police practices in their country of origin. As Currie noted:

In some cases, the experiences of ethnocultural minority community members with the police may result in a view of the police as repressive and discriminatory. Police may have been experienced in the past as corrupt, undisciplined and discriminatory. In the cases of refugees or immigrants from authoritarian states, the police may have been direct agents of oppression—taking part in torture, disappearances, and murder (Currie 1995: 36).

The fear and distrust many women have of the police in their country of origin may be transferred to Canadian police practices and policies on immigration to Canada

Several of the women stated that in their country of origin police often oppress and torture citizens. The women were reluctant to use the police in Canada in woman abuse cases out of fear that they will use physical force with either the victim or offender. The following statements made by various women reflect this fear.

If you call the police they may beat up your husband.

If you call the police you may be in even more trouble as the police officer may be a batterer himself.

A significant number of women in the study expressed a rather high level of concern about how the police would verbally respond to a woman's statement that she had been abused. They believed that if they were to call on the police for assistance, who usually were male, they would risk being ridiculed by them or the police would side with the offender and dismiss the allegations of abuse. The distrust that many of the women expressed about the police appeared to be tied to their status as women; they feared they would be distrusted on the basis of their gender. If they were to call the police, they would be laughed at and the police would ask, "Why did you marry him?" Concomitantly, some women stated that if they called the police for service and protection, the police would not believe them, but rather would

believe the husband's denial of abuse given his superior socio-economic position.

A complex web: summary points

The vast majority of participants identified the interplay of cultural norms and structural oppression as profound barriers to the justice system for abused immigrant women. All the women, no matter what their country of origin, described their social life as deeply rooted in patriarchal structures. Many women saw their roles as wives and mothers rather rigidly defined and, as such, indicated that the norm of defining abuse as a private, personal matter in conjunction with the fear of bringing shame to their family meant they were often very reluctant to contact the justice system. Structural constraints, such as language barriers, perceived racism in the criminal justice system and social service agencies, and lack of adequate ethnocultural services and representation, were also identified as disincentives to seeking help in cases of abuse. These types of barriers correspond, in large part, to those Currie found in her analysis of the literature addressing barriers to justice for abused immigrant women.

Notably, most of the women stated that a lack of knowledge regarding criminal and civil legal protection in cases of abuse also serves as a disincentive to contacting the justice system. Virtually all the women in the study indicated they were not provided with information on immigration to Canada about their legal rights surrounding abuse nor were they provided with information about the services that one may be able to utilize in cases of woman abuse. These findings are consistent with other studies which suggest that there is a significant lack of public legal education and material for immigrant men and women about woman abuse (Godin 1994; MacLeod & Shin 1990). Lamenting about the dearth of legal information for abused

immigrant women, Godin has noted, “Virtually all reports on the situation faced by immigrant women who are subject to wife assault call for more legal information for women” (Godin 1994: 7).

Informal family mediation practices, as opposed to the police and the court system, were identified by most women as the common and desirable means to deal with abuse. Given that divorce was not an option for many women pursuant to certain cultural norms and socio-economic variables, and given their historical reliance on traditional, informal resolution techniques to deal with conflict, informal family mediation and counselling were cited by most participants as the appropriate avenue to deal with woman abuse.

Clearly, a significant number of barriers to the justice system exist for abused immigrant women. Many of these barriers, as the data suggest, may be even more pronounced for abused immigrant women living in provinces, such as New Brunswick, where the immigrant population is small. As recent data suggest, less than three per cent of the immigrant population resides across five provinces in Canada, with New Brunswick being one of those provinces (Statistics Canada). Given the small immigrant communities in New Brunswick, an abused immigrant women may be quite isolated. Such isolation may ensure or reinforce her dependency on an abusive male.

In short, there are a broad array of complex barriers that inhibit abused immigrant women from seeking support and assistance from the criminal justice system and justice-related services. While this study has contributed to a better understanding of some of the issues that arise for abused immigrant women in New Brunswick, much more research is needed in this area to understand more fully and address the needs of immigrant women who are the victims of male violence and reside in predominately rural provinces such as New Brunswick.

Recommendations

Recommendations to improve access to the criminal justice system and justice-related services for abused immigrant women:

1. Provide cultural sensitivity training to criminal justice personnel and those who work in justice-related services.
2. Explain immigration procedures regarding sponsorship and woman abuse to criminal justice personnel and those who work in justice-related services.
3. Employ more ethnic service providers in the criminal justice system and justice-related services.
4. Increase funding for legal aid.
5. Create more support services for immigrant families in conflict.
6. Create outreach and follow-up services.

Recommendations to improve awareness of socio-legal issues pertaining to woman abuse and the criminal justice system:

7. Provide more and ongoing information to immigrant men and women about legal rights and issues surrounding woman abuse before and during their entry into Canada and after they have arrived.
8. Increase collaboration between immigrant and refugee agencies and woman abuse projects and shelters.
9. Develop educational strategies which target personnel in places where immigrant and refugee communities regularly convene.
10. Conduct group discussions and workshops about woman abuse in immigrant and refugee communities and organizations on an ongoing basis.

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