

Hardly a Leg to Stand On:  
The Civil and Social Rights of Immigrant Victims of Domestic  
Violence

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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 question. It is primarily based on information gathered from 16 open-ended interviews with attorneys and legal advocates working with immigrant women who are victims of domestic violence; a review of relevant policies and laws; and a review of the literature. This information focused on the current status of policies and laws impacting immigrant women seeking to establish independent households in the United States and the issues these women encountered as they negotiate

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<sup>1</sup> For our study, we identified South Asian countries as India, Pakistan, Bangladesh, Nepal, Bhutan and Sri Lanka.

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 South Asian women who are victims of domestic violence, and a review of national and international literature on the incidence and prevalence of domestic violence among South Asians.

### *South Asian Women and Domestic Violence*

It is critical to look at the policy issues related to immigration status when looking at providing assistance to South Asian victims of domestic violence, because most of the South Asian domestic violence victims seeking help from DV organizations are likely to be immigrants. At Apna Ghar, our case review found that 92% of the South Asian women seeking help were immigrants. This is higher than 74% of the South Asian women in Chicago who are immigrants, pointing perhaps to either the increase needs of immigrant women for assistance when they are victims, and/ or the increased victimization of immigrant women. Other organizations throughout the United States (and three in Canada) also reported that a preponderance of immigrants sought their services. Nine out of 10 agencies reported that 70% or more of their clients were immigrants. Most agencies interviewed for the study identified legal issues related to immigration status as among the top barriers or issues that their clients had to address. This is not surprising, since the majority of the South Asians women in the United States are non-

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 protocols to address battering were instituted in many departments throughout the country, as were special court procedures, such as specialized Domestic Violence courts. With the enactment of the Violence Against Women Act (VAWA) of 1994 by Congress, policies to address the rights of victims and provide services.

At the same time, the domestic violence service system developed, increased emphasis and understanding grew about the diversity of victims, along with the ability of women from different class background, races, and ethnicities etc. to use the system. One group especially hampered in accessing services and finding safety was immigrant women. They are hampered both by their lack of rights to access various parts of the domestic violence system, and by the power that their abusers often had over them within the immigration system. Advocates for victims of domestic violence recognized these issues and began addressing them in the policy advocacy arena. For example, VAWA 1994 and VAWA 2000 established and extended needed rights within the immigration system for abused women and children who were married to United States citizens and legal permanent resident aliens.

While on one hand, VAWA was consolidating and extending the rights of battered women in general and of certain abused immigrant

women, on the other hand, a set of policies enacted in 1996—responding to anti-welfare and anti-immigration sentiment that increasingly dominated policy making in the 1990—restricted and or weakened their rights.

The Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA) restricted the legal rights of most immigrants, with particularly harsh provisions affecting undocumented victims. The Personal Responsibility and Work Opportunity Reconciliation Act (PROWORA) eliminated many entitlements that poor families headed by single parents had to public assistance. Immigrant domestic violence victims married to lawful permanent residents or United States citizens are barred from receiving benefits for at least five years from the date of their entry into United States (if after August 21, 1996). (Asian & Pacific Policy Institute, 2002) No other non-citizens are eligible for benefits<sup>2</sup>.

Initially these anti-immigrant and anti-welfare policies made no provisions for the situations of battered women. Recognizing the importance of public assistance to domestic violence victims, domestic violence advocates were alarmed by the reduction of the welfare entitlement in the Personal Responsibility and Work Opportunity Reconciliation Act (PROWORA). This led to the adoption of the Wellstone/Murray amendment, the Family Violence Option (FVO). This amendment gave states the option to screen recipients for domestic violence and to grant them temporary exemptions from welfare program

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<sup>2</sup> Immigrants who had special refugee status and/or have been admitted to United States on humanitarian grounds still maintained some rights to public assistance for a certain period of time.

requirements and time limits. As of July 2004, 42 states (including Illinois) and the District of Columbia have instituted some or all the provisions in the FVO, another five states have implemented some equivalent measures, and only four states have not adopted statewide provisions (Legal Momentum, 2004a).

In addition, some states, such as Illinois have extended assorted benefits and rights to permanent legal residents. In addition, under VAWA 2000, some battered immigrants can be eligible for public assistance in certain circumstances. While human rights and feminists activists are advocating extending full national social welfare benefits to immigrant victims, many doubt that any such option will be easily enacted in the current political climate. Legal Momentum (formerly the NOW Legal Defense Fund) aptly describes immigrant women as “falling through the cracks” in the current system (Legal Momentum, 2004b).

#### *A Review of Non-Citizen Immigration Status and Rights*

Given a victim’s immigration status, the issues she faces related to immigration and abuse, her ability to use the domestic violence services system, and, the likelihood that she will receive adequate support vary significantly (Table 1).

##### *Permanent resident status*

Women who have permanent legal resident status, unlike their non-citizen immigrant sisters who do not have permanent status, are not put at risk in their ability to live and work in the United States when they challenge, leave, or terminate their relationship with an abuser.

However, many of them are restricted in their ability to use the social



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 the state in which they are residing.

*Non-immigrants: Temporary Visitors, Students and Workers*

While the situation is difficult for victims sponsored by citizens and legal permanent residents, the situation is even more precarious for victims who are dependents of their abusers who states in the United States is based on temporary visas. These include temporary work visas and student visas. H-4 (temporary work) dependent visa-holders are a major part of constituency of the South Asian organizations interviewed.

Table 1: Rights and Immigration Status

Status	Immigration System Rights/Strategies	Access to Social Welfare Supports
An “independent” resident immigrant, a person who has legal permanent resident status.	This person does not have a legal problem with her immigration status and her ability to stay in US and work because of severing her relationship with an abusing spouse or fiancée.	<ul style="list-style-type: none"> <li>• Depending on # of years of employment by her (and her spouse), possible eligibility for Social Welfare benefits, food stamps, child cares subsidies, housing subsidies, etc.</li> <li>• Even if does not meet work duration requirement depending on state, might be eligible for social welfare benefits* <ul style="list-style-type: none"> <li>○ For example, in Illinois, are eligible for TANF, Transitional Assistance, and State Disability Assistance.</li> </ul> </li> </ul> <p>*Due to liberalizing provisions in VAWA 2000.</p>
A person who has Family based immigration status— she is “sponsored” by her spouse who is a US citizen or is a legal permanent resident.	Right to self-petition for independent status based on Violence Against Women Act (VAWA)	If the person has self-petitioned under the Violence Against Women Act she can be eligible for TANF and other supports as stated above.
Non-permanent residents ( <b>students</b> , business travelers, tourists, <b>temporary workers</b> , <b>trainees</b> )	Her status is not dependent on relationship to abuser. But a problem can arise if she falls out of status (loses job, flunks out of school, loses economic support). Then has no legal status (see undocumented).	No access to social welfare system unless child is citizen, then limited.
Spouses of non-immigrant residents	This person is dependent on her husband’s status. No recourse under VAWA. If husband loses status (deported), she has no legal status. Recourse is either to get independent non-immigrant status, Asylum petition, or possibly U-VISA.	No access to social welfare system unless child is citizen, then limited.
Undocumented Residents <ul style="list-style-type: none"> <li>• Never had any visas/status</li> <li>• “Out of status”</li> </ul>	Only resource is file for Asylum or U-VISA, or –get back in status (student visa, temporary work visa)	No access to social welfare system unless child is citizen, then still very limited.

These victims have no ability to the petition for permanent residency under VAWA, and if their abusers are deported or forfeit their immigration status, the victim-spouses can often lose their ability to stay

in this country as well. For these individuals there are only three possible strategies. First, they can obtain their own non-immigration visas by being accepted in an educational program as a student, by getting a job with an employer who can petition for a temporary business visa, or by applying for asylum or a U-Visa. They are not eligible for any social welfare benefits unless they have a child who is a citizen, but this is very limited.

### *Asylum*

In asylum cases, one has to prove that the petitioner would suffer further persecution and further abuse in their home countries and that can be difficult to prove. In addition, it is difficult to be granted Asylum if you have been in this country illegally for more than one year.

### *U-Visa*

Authorized under VAWA 2000, the purpose is to protect immigrant victims of crime and also to aid law enforcement. It allows up to 10,000 three-year U-visas to be issued annually to victims of crimes in the United States including domestic violence, rape, torture, trafficking, incest, sexual assault, murder, abduction, and of other crimes. This provision was passed by Congress in 2000 and has begun being clarified in the past year. However, regulations have yet to be written and only recently have 530 of 868 visa applicants gotten past the first stage of approval, winning interim relief from deportation (Bernstein, 2004; Pendleton, 2003).

### *Undocumented Status*

According to attorneys and legal advocates in Illinois, South Asian women are less likely to be undocumented. Those who are undocumented are more likely to have lapsed family or temporary status rather than having entered the country illegally. Undocumented women who are domestic violence victims cannot avail themselves of many services and supports in the domestic violence support system. They are not eligible for any social welfare benefits. They shy away from any standing within the legal system, fearing that their undocumented status will be revealed and that they will be deported. Two immigration provisions discussed above, Asylum and the new U-Visa are possible avenues for them to pursue, but are very difficult (Asylum) or too new (U-Visa) to be dependable avenues to rights and safety. At the same time, changes or proposed changes to immigration policy and social policy in the past ten years due to immigration backlash in general, and 9/11 in particular, have made the status of these undocumented women victims and their families even more precarious.

### *Issues faced by Immigrant Victims*

Abusers pushing vulnerable buttons (in the client)...fear of being deported, --... going to be abandoned ... won't get to see their kids, degradation of their spirit, huge, domestic violence is a pattern forcing them to change because of threats, because trying to respond... (California agency staffer serving immigrants women).

The lack of rights and the insecurities of immigrant status give rise to a myriad of problematic issues. Advocates recount situations in which a poor understanding of their rights, manipulation of information by

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 harm, women seeking assistance.

### *Lack of Knowledge*

Immigrant women often are hampered by a lack of knowledge of their rights. In fact, many assume they have no rights. Legal advocates told story after story of women who were married to citizens or resident aliens and therefore has a number of rights under VAWA but underestimated their ability to independently apply for permanent residency in the United States. For example, women did not realize that they could apply for residency while still living with their abuser and without their abuser knowing. Conversely, others didn't understand that they could be separated or divorced from their citizen/resident abuser and be eligible under VAWA to self-petition to move from conditional to permanent resident status. Others didn't realize that their receipt of social welfare benefits related to their abuse did not hamper their ability to gain residency status.

Community advocates reported that nowhere in the immigrating process are women informed of their rights. Not knowing where to go and feeling isolated in the United States, they often call relatives and friends in their home country for assistance. One organization composed of Indians migrating from a particular region of Indian found that they often

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 women had been abandoned by her abuser, the abandonment, in fact, being a feature of the abuse.

### *Losing their children*

Abusers who are citizens or permanent legal residents often actively play on their spouses fear of deportation or, hence, of separation from her children. A number of providers and legal advocates reported that a major issues for immigrant women in pursuing cases is their fear

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.

#### *Putting their abuser at risk*

Conversely, women fear that if they report abuse and seek help within the criminal justice system the abuser will be deported. She is concerned about this for a range of reasons:

- This will affect her and her children's ability to stay in the United States. Even though this is not necessarily the case. Even if they are on the same visa, women can get separate hearings from their spouse.
- She does not want to separate her children from their father.
- She needs her spouse's financial support.

#### *Distrust of the United States legal system*

Even if women have some knowledge of their rights—and they have an immigration status where they have rights -- many immigrant women do not trust the American legal system. Part of this is that they have not had the time or experience to build trust. In addition, some battered



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) issues*

The need for legal resources points us to second set of challenges for these women: the structure of the U.S. immigration, legal systems, and social welfare that the woman must negotiate. Not only is the legal and policy structure that the women have to maneuver complicated, it is far from welcoming and benign.

*A cumbersome, lengthy, and often hostile immigration process*

Women have a number of problems with the immigration system. Immigration status issues are not easily resolved and victims are often in limbo in regard to their *immigration status*—and hence their ability to build a safe life for themselves for years.

Advocates reported that the VAWA/adjustment process takes two to three years. This is especially true since 9/11. For example, an application for VAWA used to take about three months but now takes six to eight months. On the whole, legal advocates reported that the national center in Vermont that handles VAWA does a good job. They are well-trained and easy to work with. However, in many localities, some of the most profound problems are found in the local immigration offices. Advocates report that local office hearing officers often are not prepared—

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.

### *Ability to work legally in the United States of America*

One area in which this “limbo rights” situation is especially deleterious is victims’ inability to legally work in this country. Many of the victims, not having independent immigration status, cannot legally work. A number of organizations identified getting work permits as a key service and conversely, the problem of women working “under the table” and being exploited as a key problem. A Chicago legal assistance program that focuses on assisting immigrant women concluded:

For immigrant survivors of domestic violence, obtaining legal permission to work in the U.S. is essential to acquiring the financial and other resources needed to achieve self-sufficiency. However, legal barriers and backlogs in obtaining work authorization has made it unlikely that an immigrant survivor of domestic violence abuse will acquire the authorization to work in time for them to leave dangerous domestic situations. (Midwest Immigrant and Human Rights Center, 2004)

Usually individuals who are married to citizens or permanent residents can get work permits once they have gotten approval under

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 disadvantage in the justice system. Often interpreters are not available. A number of attorneys brought up examples of victims who were arrested in domestic disputes because they were not able to explain their circumstances to the police.

Second, women married to citizens often encounter bias because of their lack of citizenship or independent residency status. Legal advocates

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 children. However, because she was not a permanent resident she was denied custody. She is still fighting for custody of her children.

Third, legal advocates report that judges do not understand the immigration dynamics that often accompany custody and divorce cases. A number of examples were offered in which the judge did not understand consequences of his/her decision on pending immigration or international custody issues.

Fourth, in some areas of the country 9/11 has had an impact on how police behave toward immigrants. Chicago advocates report that while in the Chicago metropolitan area City of Chicago police do not see their role as enforcing immigration law, this is not the case in some of the suburban areas. Nationally, providers report that the proposed new federal legislation, the CLEAR Act, has increased distrust and if it is passed, would have a very negative impact on victims’ ability to access support within the criminal justice and civil court systems. The proposed legislation would mandate local police to ask about immigration status and report any discrepancies they find.

*Accessing Social Welfare.*

The issues associated with social welfare fall into three categories: lack of eligibility; unfair denial of benefits when eligible; and no provision for increase time needed for immigrants to transition to independent housing and employment.

First, reflecting the limitations imposed by welfare reform, public assistance is not available to many immigrant victims. Perhaps the most telling indication of the difficulty with accessing public assistance was one of omission. None of the providers in the United States identified social welfare as a tool for establishing economic security. In contrast, the Canadian providers mentioned public assistance as a tool in their support tool-kit.

Second, even in situations and/or localities when immigrant victims have some rights to public assistance of one kind or another, confusion regarding eligibility result in eligible victims being denied benefits. For example, some states such as Illinois use state monies to cover immigrants excluded from the national regulation, and/or to cover domestic violence victims. Yet we found in Illinois, and it has been reported in other states (Asian & Pacific Institute, 2000), that many eligible immigrant clients are denied benefits they are eligible for by street level workers. Advocates nationally reported this problem, noting that benefits are very rarely given out because most immigrants just stop trying.

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, the cases are not immediately resolved and often require many follow-up phone calls. She reports that this, along with the reticence that many South Asian women feel about applying for public assistance, leads to a low take-up rate.

Third, service providers report that immigrant victims often stay in shelters and need assistance for longer periods of time than is anticipated by various state government funding packages. Their transition time is longer for a variety of reasons: the long waits that they experience in obtaining work permits; the need to develop language skills in order to obtain employment, and their inability to access public child care and employment training services. In addition, they are often not eligible for public housing or public subsidized permanent housing.

#### *Implications for Policy and Recommendations*

Immigrant women who are victims of domestic violence residing in the United States are in a “perfect storm.” Key tasks for victims of violence can be categorized around being safe, being able to economically

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



violence as seen in the VAWA legislation of 1994 and 2000 and the Family Violence Option. The networks of community-based organizations that serve women who are victims of domestic violence have private resources to serve victims in need. Although these private resources—whether in volunteer time or money—are limited, they do provide support for assistance to immigrant and other women based on human needs and rights rather than narrower “citizen rights” which define public services and protection.

In particular, our review of the immigration and social welfare system concludes that:

- Many of the aspects of United States “family based” immigration provisions create and/or exacerbate an unequal power relationship between the abuser (the sponsor) and his spouse.
- Certain aspects of the US welfare system limit the options available for victims of domestic violence to successfully receive support. In particular, the lack of universal entitlement to family, employment and housing benefits combined with the retrenchment in entitlement to poverty and other social welfare programs for both women in general and non-citizens in particular have severely limited assistance to immigrant abused women.
- A domestic violence service system based on “citizen rights” as compared to “human rights” such as that in United States has some profound limitation in fully serving immigrant women.

Table 2: DV Service Model, Rights and Immigration Issues

Domestic Violence Victim Needs	Institution/Services	Issues for Immigrants
Safety	Emergency shelter system  Police, criminal and civil courts <ul style="list-style-type: none"> <li>• Protection</li> <li>• Order of Protection</li> <li>• Punishment of abuser</li> </ul>	<ul style="list-style-type: none"> <li>• Shelters have limited resources to fund extended stays necessitated by lack of work permits/access to public assistance</li> <li>• Lack of culturally appropriate programming</li> <li>• Fear of legal system</li> <li>• Lack of standing and equal protection</li> <li>• Lack of translators</li> </ul>
Economically Maintain Independent Household and Family	Housing <ul style="list-style-type: none"> <li>• Emergency/Transitional Housing</li> <li>• Public Housing Benefits               <ul style="list-style-type: none"> <li>▪ Subsidies</li> <li>▪ Public Housing</li> </ul> </li> <li>• Public Assistance stipends               <ul style="list-style-type: none"> <li>▪ TANF</li> <li>▪ Disability, etc.</li> </ul> </li> <li>• Community/non-profit agencies</li> </ul> Employment <ul style="list-style-type: none"> <li>• Access to legal employment</li> <li>• Employment Training Services</li> <li>• Child care subsidies</li> <li>• Transportation subsidies</li> </ul> Family Court <ul style="list-style-type: none"> <li>• Child support, maintenance, child custody</li> </ul>	<ul style="list-style-type: none"> <li>• Depending on status, no or limited rights to               <ul style="list-style-type: none"> <li>▪ Independently set up legal residence</li> <li>▪ Social Welfare benefits and services</li> </ul> </li> <li>• Private agencies have limited resources to provide permanent transitional housing</li> <li>• Permission to legally work in US</li> <li>• Eligibility for public services and subsidies</li> <li>• Few private pro-bono employment services</li> <li>• Lack of language skills, work history</li> <li>• Due to status, not necessarily equal protection and standing in family court</li> <li>• Due to more than one jurisdiction(i.e., multiple countries), lack of authority by family courts to enforce decisions</li> </ul>
Become Psychologically Empowered	Mental Health Programs <ul style="list-style-type: none"> <li>• Counseling</li> <li>• Support groups</li> </ul>	<ul style="list-style-type: none"> <li>• Depending on status, lack of right to subsidized health services</li> <li>• Few pro-bono private clinical services</li> <li>• Lack of culturally appropriate services, services no in native language</li> <li>• Clients fear stigma</li> </ul>

The realities faced by the immigrant women call for a three-prong policy strategy. First, immigrant women must be armed with the knowledge and resources to utilize the rights and services that are available to them. Second, strong advocacy must focus on insuring that the government agencies and agents implement policies correctly and fairly for immigrant women. Third, the current work of advocates to both roll back the retrenchment of welfare rights and expand the rights of women victims—whether citizen or not—must continue.

## *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*

- Mandate all states to cover all immigrants in various public assistance programs including TANF, TANF-funded childcare, job training and transportation programs, SSI, Medicaid, SCIP, and other programs.
  - At minimum, mandate coverage of immigrant victims of domestic violence for public assistance such as proposed in Women Immigrant Safe Harbor ACT
- Reform immigration procedures to allow more independent immigration status for women who are reuniting with family in the United States.
- Expand asylum status to include victims of domestic violence who do not meet VAWA requirements.
- Develop “fast track” work permits that would allow employment authorization to be granted on the basis of a *pending* self-petition.
- Move from basing rights for violence victims on citizenship and residency to basing rights on “person-hood” and international law.

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