Realities for Immigrant Populations: How They Experience the System

Lack of Knowledge and Misinformation about the Legal System
Both citizen and noncitizen abusers routinely misinform their victims about their rights in the United States. For instance, they often claim that a noncitizen cannot obtain child custody from a U.S. court and that attempting to do so will result in the noncitizen’s deportation, or the child’s deportation if the child is undocumented. Courts who use a noncitizen’s immigration status against her when determining child custody legitimize fears that the civil system is not a source of justice for immigrants.

Many noncitizens also come from countries where women cannot receive justice. They may lack domestic violence laws, or, if laws do exist, may be unenforced. Additionally, the proof requirements for enforcement may be absurdly onerous. Foreign courts may require oral testimony or prohibit testimony from women. They may provide justice only to those who pay for it. Social mores about “a woman’s place” also may discourage women from accessing civil systems in their homeland (or in the United States).

Fear of the Police and Judicial System
Similar dynamics apply to a noncitizen victim’s fear of the police and the judicial system. Abusers tell victims that the police will not help them if they are undocumented, or that calling the police will result in their deportation. Noncitizens may come from countries where police are instruments of repression, respond only to bribes, or believe women should be subordinate to men. Unfortunately, some police officers in this country do discriminate against noncitizens, especially if they are people of color or do not speak English well. Reports of police helping to enforce the immigration laws by arresting, detaining, and handing noncitizens over to Department of Homeland Security (DHS) personnel undermine or eliminate trust immigrant communities might have in the police. Courts that allow or encourage DHS personnel to attend hearings (and often to arrest, and detain noncitizens) ensure that immigrants will not view them as a source of fairness or justice.

Fear of Deportation or Removal
Fear of deportation (now called “removal” by Congress and DHS) is paramount for all immigrants. Although some immigrants may travel safely back and forth between their home country and the United States, victims of domestic violence are rarely in this situation. They often will lose access to their children, be ostracized and shunned in their home country, and otherwise suffer if they are returned to their home country. If the children remain here, they often remain in the hands of the abusers.

Abusers play on this fear in many ways, some noted above. They routinely threaten to report their victims to DHS. In many situations, they actually do control their victims’ access to immigration status, and their victims’ status may be revoked by DHS if the abuser calls them. Abusers very typically call DHS when a victim starts to challenge their domination, alleging that she married him only to gain immigration status. Fortunately, with the new routes to status, noncitizens in this situation may be able to gain status without the help, and despite the interference, of the abuser.
Any systems that actually do turn noncitizens over to DHS legitimize this fear and erect an insurmountable barrier to serving immigrant communities. Unfortunately, DHS may attempt to remove noncitizen victims reported to them by abusers, even though the victims have pending applications for immigration status based on domestic violence.

**Fear the Abuser Will Be Removed**

Many noncitizens who suffer abuse wish to achieve safety for themselves and their children, but they do not wish their abusers to be removed. Courts should not dismiss these concerns; they are quite legitimate. Abusers often take children with them when they leave the U.S.; once this happens it is unlikely the noncitizen parent will ever see them again. If the abuser returns to the U.S., he may be even more dangerous than when he left.

The abuser may provide vital financial support to the family, especially the children, which will end with his removal. Many immigrants, including abusers, send money back to the family in the home country; this flow will end with the abuser’s removal and will cause hardship to the communities and people the victim cares about. Her family and community in the homeland may shun and blame her for causing hardship to them and to the abuser and for leaving her husband.

Many noncitizens who suffer domestic violence have an immigration status that depends on the abuser’s presence in the United States. Although Congress has created special routes to status for many noncitizens, not all will qualify, they may not be aware they qualify, or the process for qualifying is onerous. When DHS removes an abuser, it rarely provides information to the victim about her eligibility to apply for status.
Language and Gender
Language barriers are especially problematic in the civil court system, which rarely requires competent interpretation and often lacks multi-lingual personnel. Victims are discouraged from accessing the court when they cannot communicate with court personnel. Courts may allow family members to serve as interpreters, or enlist immigrant community members who may have a bias against, or paternalistic approach to, the victim. Political, cultural and gender differences may inhibit a victim from speaking openly in court, and many interpreters may fail to provide phrase-by-phrase interpretation. In addition, many immigrant women may be reticent to discuss domestic violence in front of men, especially men from their community.

Culture and Religion
As is true in some longstanding U.S. communities, cultural or religious leaders may pressure victims to submit to domestic violence. Challenging male domination or “airing dirty laundry” will be punished by isolation and social disapproval. Divorce may violate social mores and bring shame to the victim’s family or community. Even when they are ready to leave their abusers, many noncitizens find that available shelters and domestic violence resources are culturally and linguistically inappropriate. Noncitizen victims may not even realize what a “shelter” is; if they are sent there without explanation, they may believe they are in a detention center.

Economic Issues
Economic control is a common form of abuse in many cultures. Its consequences are exacerbated for noncitizen victims because they cannot legally obtain work authorization without applying for immigration status. If they can work, they often cannot find child care. If they are eligible for public benefits, they often cannot obtain them because public benefits administrators are ignorant about laws authorizing noncitizens to receive benefits or are antagonistic to noncitizens generally.

Some of the obstacles noted above are common to virtually all domestic violence victims encountered in family court; some are permutations of common problems, or severe versions of what courts regularly see. However, some are specific to immigrant women who may simultaneously face race, gender, cultural, and language barriers, and must also overcome fear of removal to access the system. Thus, the immigrant women family courts see may be only the few whose desperation has overwhelmed their fears.