

BREAKING DOWN BARRIERS: CHALLENGES IN PROVIDING LEGAL SERVICES FOR  
IMMIGRANT WOMEN WHO HAVE EXPERIENCED INTIMATE PARTNER VIOLENCE

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### **Author's Declaration**

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Master of Arts  
Immigration and Settlement Studies  
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## **Abstract**

Violence against immigrant women is a prevalent and serious violation of human rights and gender equality that is often dismissed. This paper seeks to firstly challenge the role of Canada in preventing and addressing violence against immigrant women through its ratification of various legal instruments and secondly, understand the challenges experienced by legal service providers in providing accessible legal services for immigrant women who have experience violence.

Through an intersectional feminist analysis of interviews with three legal service providers and four Ontario cases, it is evident that immigrant women and legal service providers experience challenges as a result of language barriers, financial barriers, cultural differences, role of motherhood and precarious legal status. Therefore, this paper recommends constitutional courts and all individuals to aid in the creation of norms and movements that transcend national boundaries to recognize the violations experienced by women all across the world.

*Key Words:* women/woman; intimate partner violence; legal services; intersectionality; and feminist

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*“Violence against women is perhaps the most shameful human rights violation. And, it is perhaps the most pervasive. It knows no boundaries of geography, culture or wealth. As long as it continues, we cannot claim to be making real progress towards equality, development and peace.”*

Secretary-General Kofi Annan  
International Women’s Day, 1999



## **Chapter 1 – Introduction**

### **Significance of the Study**

This research aims to frame intimate partner violence (IPV, hereafter) as a human rights violation to allow individuals to recognize how IPV is a form of torture (MacKinnon, 2006). Often times, IPV is dismissed as a personal relationship issue while ignoring the systemic causes of violence against women created by patriarchal structures and power imbalances. Thus, MacKinnon (2006) argues that it is necessary to challenge international human rights norms in their understanding of torture to include IPV. By doing so, this paper hopes to call upon Canada's obligation under the *Charter of Rights and Freedoms*, *Canadian Human Rights Act*, the *Universal Declaration of Human Rights* and the Committee on the Elimination of Discrimination against Women to provide services to prevent and address IPV.

All forms of IPV are serious violations of human rights, however, they are not always reported for a variety of reasons. Many immigrant women often do not report their abuse or seek any legal action for the fear of facing consequences of stigma, isolation and even further abuse. Therefore, it is Canada's responsibility to create a safe environment where women are provided with information and resources for reporting and seeking legal services regardless of cultural differences, language barriers or unfamiliarity with the legal system. Violence against immigrant women is a serious violation of Canadian and international human rights that are guaranteed to all individuals (Charter, 1982; Canadian Human Rights Act, 1985; CEDAW, 1992). Canada's role and responsibilities need to be challenged in preventing and addressing these violations by providing accessible services for all individuals residing in Canada regardless of their status.

Thus, it is necessary to call upon Canada's responsibility to prevent and address IPV and protect women who have experienced IPV by providing adequate responses, information and services.

While IPV continues to be one of the most harmful types of violence that affects women across the world, it is imperative to analyze if and how immigrant women are especially affected by IPV. This paper hopes to highlight and problematize the stigma around IPV in many immigrant communities. As a member of the South Asian community, I hope to reflect and draw attention to the high rates of IPV that is present in many South Asian homes. While IPV is very prominent in many South Asian homes, it is rarely reported or discussed due to the shame and stigma associated with IPV (Madden et al., 2015). While I do not intend to focus this paper on South Asian communities, I do believe I have a responsibility as an Indian woman to discuss the often-silenced issue of IPV and hopefully improve access to legal services.

## **Definitions**

This major research paper will use three main terms: 'intimate partner violence', 'immigrant women' and 'legal services' to understand the challenges faced by legal service professionals in providing services for immigrant women who have experienced intimate partner violence. It is necessary to firstly define what these terms mean in the context and scope of this paper and how they will be used throughout this research.

IPV refers to any form of violence (i.e., physical, sexual, verbal, psychological and emotional) committed by a current or ex-partner in an interpersonal relationship (Weber & Bouman, 2017). It also includes the actual, attempted and threatened forms of violence against a partner, often in the context of coercive control (Weber & Bouman, 2017; Tjaden & Thoennes, 2000). Rose (2015) argues that in order to understand IPV, it is necessary to examine the power

imbalance that is inherent in IPV and how this power imbalance can manifest into abusive situations. Thus, this research paper aims to highlight power imbalance as a defining feature of IPV.

The term “immigrant women” will refer to any woman born outside of Canada to include refugee women, precarious status and long-term newcomers. This broad definition of immigrant women is used in order to encapsulate the diversity in immigration status and the various challenges experienced as a result of their status (Menjivar & Salcido, 2002). A wide range of immigration statuses will be used throughout this paper to illustrate barriers to accessing legal services based on their immigration status. It is important to recognize that while these women may come from different walks of life, they share their experiences as vulnerable women within the Canadian immigration system (Menjivar & Salcido, 2002; Hyman et al., 2006).

Legal services in the context of this research paper will refer to legal information, legal representation and court translator services. More importantly, this paper will look at the accessibility and affordability of the legal services. While it is important that legal services exist, it is imperative that these services can be accessed by all populations, especially vulnerable populations such as immigrant women who have experienced IPV. Therefore, when legal services are referred to throughout this paper, it will refer specifically to affordable and accessible services.

## **Theoretical Framework**

The present paper will draw from feminist scholars and movements to highlight the gendered nature of IPV. It is necessary to recognize the role of feminist movements, as they are responsible for creating awareness regarding IPV and pushing for change within the criminal

justice system to recognize the criminality of IPV (Erez, Adelman & Gregory, 2009; Ali & Naylor, 2013). Furthermore, feminist scholars highlight the gendered nature of IPV through using terms such as wife assault and battered women. These terms emphasize the power difference between men and women created by patriarchal structures that allow men to use violence and force women to often remain in abusive relationships (Ali & Naylor, 2013).

Before delving into the research, I believe it is important to have a disclaimer about the language I will be using to discuss women who have experienced violence. I do not wish to use the term “victim” in this paper to discuss women who have experienced IPV as I believe by doing so, it almost becomes a defining feature. I believe because the women who have experienced IPV are so much more than their experiences of violence, it would be oppressive and demeaning to constantly refer to them as victims. It is necessary to acknowledge the “strength, resilience, and agency of women” in order to “strive towards the goals of female empowerment and self-determination (McPhail et al., 2007, p. 818).”

Using works by Martha Nussbaum, I will be discussing how sex (i.e. women) has been used to deny certain groups social justice (Nussbaum, 1999). Her ideas regarding internationalism, humanism and feminism will work to complement my understanding on how IPV needs to be recognized as a global issue depriving women of human dignity (Nussbaum, 1999). Nussbaum (2005) argues that violence against women inhibits and interferes with every aspect of a woman’s capability. She states that in order to understand the damage inflicted upon women who have experienced violence, it is necessary to examine the capabilities which are affected as a result of the violence (Nussbaum, 2005). She appeals to nation states by illustrating how violence impacts the fundamental human rights and entitlements of women across the world

(Nussbaum, 2005). Nussbaum (2005) discusses how the lives of many women are taken as a result of violence, how the health of women deteriorates following violence, how women are deprived of bodily integrity, imagination and thought due to the violence they have experienced. Thus, in order to problematize violence against women and propose such violence as a human rights and gender equality violation, it is necessary to understand the various fundamental human entitlements that women are deprived of.

While Nussbaum emphasizes that some groups of women may be more vulnerable to violence than others, she highlights the stark fact that all groups of women are susceptible to violence, regardless of their membership to any group (Nussbaum, 2005). She states “the fact is that no woman who is rational is ever utterly free of the fear of such violence, whether she has ever experienced violence herself or not (Nussbaum, 2005, p. 168).” This constant fear is argued as a form of psychological violence that often works to limit and restrict the activities, enjoyment and quality of life for women across the world (Nussbaum, 2005). While recalling her own experiences with violence, Nussbaum (2005) reiterates that while some women may not directly suffer from violence, the fear of potential violence also can work to inhibit and diminish their capabilities. Thus, it becomes almost impossible to even imagine the gravity of damage inflicted upon the capabilities of women who have experienced IPV (Nussbaum, 2005).

I will be drawing from the works of MacKinnon to frame issues of IPV as a universal human rights violation. MacKinnon (1994) argues that human rights have not always been women’s rights by saying, “rights that human beings have by virtue of being human have not been rights to which women have had access, nor have violations of women as such been part of the definition of the violation of the human as such on which human rights law has traditionally

been predicated (p. 5).” Thus, in order to address violence, she argues that it is necessary to challenge international human rights norms in their understanding of torture to recognize how IPV is a form of torture (McGlynn, 2008). As women who experience IPV are spread out across race, class, and jurisdictional boundaries, their experiences are almost universal. By appealing to international human rights norms, governing bodies are forced to recognize that even when violence is gendered and intimate, it is still a form of torture that needs to be addressed as women are also human (MacKinnon, 2006).

MacKinnon (2006) also calls upon the State to recognize its role and responsibilities to understand the gravity and endemic nature of violence against women (McGlynn, 2008). According to feminist scholars, in order to understand IPV, it is necessary to recognize the patriarchal structures that are in existence (McPhail et al., 2007). They argue that IPV occurs as a result of male oppression of women through exercising their power as men where “men are the primary perpetrators of violence and women are the primary victims (McPhail et al., 2007, p. 818).” The male dominance over women is maintained through the power imbalances that are inherent in heterosexual relationships as imposed by patriarchal and hierarchical structures (McPhail et al., 2009). Thus, when discussing violence against women, it is important to understand that while crimes are committed by individuals, violence cannot be excused or categorized as a problem of a few men but rather a systemic problem created through the power imbalances inherent in patriarchal systems (Rose, 2015).

MacKinnon (1994) problematizes the rhetoric regarding violence against women as it is either seen as being too specific to women or too generic to humans. She states that it is almost as though “human” and “female” are mutually exclusive as it seems to be impossible to be both a

woman and human at the same time (MacKinnon, 1994). It is imperative to recognize that while many women experience the same forms of violence as men, there are also many women who experience violence that is very different from men, as many forms of violence are very gendered (MacKinnon, 1994). Thus, in understanding violence, it is necessary to consider the gendered impacts of violence and how they affect the fundamental human rights entitlements.

The present paper will also be framed through an intersectional feminist lens. MacKinnon argues for the need to move beyond white feminism to recognize the additional challenges that racialized women experience due to the intersection of race, class, immigration status along with gender (MacKinnon, 1991). Similarly, Crenshaw (1989) highlights the need to operate with an intersectional lens as the experiences of all women are very different depending on their privileges and oppressions in life. This paper will be framed by the thoughts and understanding of intersectionality as proposed by Crenshaw (1989) to illustrate how the experiences of women of colour need to be understood outside of the experiences of men of colour and white women. This distinction emphasizes the fact that their experiences cannot be generalized to the experiences of all people of colour or all women as their lives are structured through their intersections as a woman and a person of colour.

Lee and Johnstone (2013) further mention that within the construct of a woman, there is a complex intersectionality of characteristics such as race, sexual orientation, class, education, and immigration status. Nussbaum (2005) argues that some women are particularly more vulnerable to violence than others due to their intersections in life, thus it is necessary to operate with an intersectional lens to understand circumstances of IPV (Seifi, 2015). Therefore, it is critical to

understand the additional barriers that immigrant women experience when seeking access to legal services.

## **Research Questions**

The intention of this paper is to answer questions regarding the challenges experienced by both immigrant women and service providers in accessing and providing legal services. The first question this study aims to answer is if immigrant women are particularly vulnerable to experiencing IPV? I hope to answer this question by looking at different culturally traditional gender roles through an intersectional feminist perspective. Secondly, through a literature review I want to understand what are the various barriers that immigrant women who have experienced IPV face when seeking legal services? Through my interviews and judicial discourse, I intend to answer what are the various barriers and challenges service providers experience in providing legal services for immigrant women who have experienced IPV. Lastly, this paper seeks to answer what are the possible recommendations and changes to existing services that can be made to provide effective, accessible legal services?

## **Structure of the Major Research Paper**

This present paper will be divided into five chapters. Following the introduction, the second chapter focuses on a literature review regarding IPV, immigrant women and legal services. IPV as a human rights violation is discussed in order to call upon the State's responsibility to problematize violence against women as a deprivation of fundamental human rights. IPV in immigrant communities is also discussed to understand if immigrant women are



particularly more vulnerable to IPV and if so, why that is the case. This paper will also outline the variety of legal services that are available for women in Ontario, and the barriers that immigrant women have with accessing such services and the barriers that legal service providers have in providing such services for immigrant women. The third chapter is the methodology and design to discuss the research design, recruitment, ethical considerations, participant profile, data collection and data analysis technique. The fourth chapter will provide the findings based on the interviews conducted with legal service providers and an analysis of Canadian legal cases. Lastly, the fifth chapter will be the conclusion and discussion. In this chapter, this paper will discuss how the interviews compared to the existing literature regarding immigrant women, legal services and IPV, and will analyze the language used in the legal cases. This study concludes that there are challenges for immigrant women and legal service providers with legal services and judicial discourse. Therefore, this chapter provides steps and suggestions for future research, the various limitations of the study, and recommendations to improve current legal services for immigrant women who have experienced IPV.

## **Chapter 2: Literature Review**

### **Intimate Partner Violence as a Human Rights Violation**

In order to emphasize the severity and endemic nature of violence against women, it is imperative to frame such violence through a human rights lens to understand what rights and protections immigrant women are legally entitled to as residents of Canada. Using various legal instruments, I will be outlining the rights ensured to all immigrant women and the roles and responsibilities of Canada both domestically and internationally.

Through analyzing the various legal instruments in place for preventing violence against women it is important to recognize that IPV is often endorsed and authorized by state policy through law (Rose, 2015). The law and the legal systems that are currently in place are inherently patriarchal in the sense that they are written by men, in order to serve the interests of men (Rose, 2015). It was not until the last two decades where many forms of violence and oppression against women became criminalized (Rose, 2015). For example, IPV was not criminalized until 1990 in England and Wales and in Canada, it was not until 1983 where rape within a marriage was considered a crime (Rose, 2015; Koshan, 2010). Thus, it is important to constantly challenge the legal roles and responsibilities of Canada in order to recognize that the presence of the laws and legal entitlements will never be enough if there are no governing mechanisms or appropriate action responses from the State. Therefore, through outlining the various legal entitlements of women residing in Canada, it becomes clear that Canada does have the responsibility to protect and address IPV experienced by women.

The *Canadian Charter of Rights and Freedoms* (*Charter*) as entrenched in the Canadian Constitution protects human rights in Canada and guarantees the “equality of all persons before and under the law” in Section 15 (Charter, 1982; Legal Aid Ontario, 2016). By stating that the equality of rights is guaranteed to all persons before and under the law, it suggests that this guarantee can be ensured to all people residing within Canadian territory (Charter, 1982). More importantly, it becomes clear that the *Charter* has obligations to guarantee gender equality to protect the rights and freedoms of women living in Canada. Thus, it is important to push *Charter* issues by framing them through a gender equality lens to ensure that violence against women is understood as a violation of gender equality.

The language used by the *Charter* carries with it significant implications to specify who is protected under various sections (Charter, 1982). For example, sections 3 and 6 of the *Charter* uses the words “Every citizen of Canada” and “Every citizen and every person who has the status of a permanent resident of Canada” to emphasize that these specific rights (democratic and mobility rights, respectively) can only be applied and guaranteed to citizens and permanent residents of Canada (Charter, 1982).

While working with the Canadian Association of Sexual Assault Centres (CASAC) Lakeman (2004) analyzed the documents of 92 cases of violence against women to understand whether the documents were consistent with understandings of the *Charter of Rights and Freedoms* in their policy and procedure. She found that, “the *Charter* obligations to the women of Canada are ignored by those responsible for emergency services, police intervention, and those prosecuting cases. The promise to women in the Charter of Rights and Freedoms is broken when it comes to women who complain of violence against women (Lakeman, 2004, p. 58).” Therefore, it is apparent that Canada needs to improve its obligation to upholding the rights and freedoms as guaranteed in the Charter in matters of violence, so that it is not complicit to the harm experienced by women. It is necessary to challenge and hold the State accountable for preventing and addressing the violence experienced by women in order to problematize and highlight areas in both policy and government response that need improvement.

Similarly, the *Canadian Human Rights Act* (1985) prohibits discrimination of individuals based on their race, national or ethnic origin, skin colour, religion, age, sex, sexual orientation, marital status, family status, disability or a conviction that has been pardoned (Legal Aid Ontario, 2016). Thus, all immigrant women residing in Ontario are entitled to protection of their

rights and cannot be discriminated against because of any of their characteristics. In addition, through preventing the discrimination of individuals based on their individual characteristics, it suggests that all people should have the access to services, information and opportunities without experiencing any form of discrimination.

Furthermore, the Committee on the Elimination of Discrimination against Women is an international legal instrument created by the United Nations to monitor the implementation of the Convention on the Elimination of All Forms of Discrimination against Women that was signed by Canada in 1980 and ratified in 1981 (CEDAW; 1992). As Canada is a participating State, it takes upon the roles and responsibilities as assigned by the CEDAW. Thus, this international legal instrument outlines the obligations for State parties to ensure that they work not only to prevent and address all forms of violence in their own country but to work together towards the end goal of ending discrimination against women including gender based violence such as IPV.

The CEDAW (1992) asserts that participating State parties, including Canada, may be responsible if they do not act with due diligence in order to prevent violations of rights or punish acts of violence. It is the responsibility of Canada to have laws that specify that violence will not be tolerated and that individuals who engage in violent behaviours will face legal consequences (CEDAW, 1992). Thus, States are called to punish and prosecute acts of violence against women. It also suggests that participating State parties ensure that their laws against family violence and abuse, rape and sexual violence work to protect all women and respect their integrity and dignity (CEDAW, 1992). Similarly, State parties are expected to ensure that they provide necessary, adequate and effective protection of women against violence including legal measures and remedies (CEDAW, 1992). The existence of such commitment to protecting

women who have experienced violence through legal measures reaffirms the roles and responsibilities of Canada in ensuring that there are adequate and accessible legal services in place for women to access and use legal services to rectify their experiences of violence. Lastly, it finds that it is the duty of public officials, including law enforcement personnel, the judiciary, and health care providers to stay updated and familiar with applicable legal provisions and speak to the vulnerable context of violence against women (CEDAW, 1992). In order to stay updated and familiar with the context of violence against women, it is also necessary to have cultural training to account for the sensitivities and differences in various cultures in how violence is approached and discussed. Thus, as a signatory party to the CEDAW, it is imperative that Canada acts upon its roles and responsibilities in working towards eliminating violence against women.

Following a report created by CASAC, CEDAW “criticized the failure to support substantive equality, including the provision of social welfare, funding for equality test cases, Canada’s treatment of aboriginal women, women’s poverty, immigration policy, the treatment of women trafficked (Lakeman, 2004, p. 60). The CEDAW argued that it is the responsibility of Canada to protect and prevent discrimination against women through enforcing the commitments made to CEDAW as a participating State party (Lakeman, 2004). Thus, it is necessary to challenge Canada’s involvement in addressing the prevalent violence against women as it highlights the various promises made to women across the world through both their domestic and international legal entitlements.

Through understanding the legal entitlements of women residing in Canada and the roles and responsibilities of Canada both domestically and internationally, it is important to apply this

understanding to frame IPV as a human rights violation through a feminist lens. It can be argued that internationally, IPV is the most pervasive and harmful type of violence against women (Rose, 2015; MacKinnon, 1993; Meyersfeld, 2010). However, she notes that “despite its mass scale, cross-cultural nature, and identifiable structural and institutional elements, it continues to be treated as a problem of violent individuals (Rose, 2015, p. 31).” Through her article, she challenges the already existing conceptual legal frameworks in international law in order to characterize IPV as both a crime against humanity and a state crime. According to the Universal Declaration of Human Rights (United Nations, 1948) and the Convention Against Torture (United Nations, 1984), IPV can be categorized as torture. However, it may prove to be difficult to create norms that frame IPV as an international human rights violation as state entities are the primary enforcers of international norms. Thus, it is necessary to create and join other feminist movements that are able to transcend jurisdictions to advocate and recognize that IPV represents a violation of women’s fundamental rights and it is imperative that international human rights enforce State responsibility to address the endemic nature of violence against women.

As outlined, Canada has both domestic and international obligation to protect their residents from violations of fundamental rights, including IPV. Feminist scholar MacKinnon (1993) states that when States fail to uphold their obligations in addressing and preventing violence against women and show “official impunity and legalized disregard” for IPV, they become complicit in the harm (Rose, 2015, p. 32). Similarly, Manjoo (2013, p. 240) argues that “a State may incur responsibility where there is a failure to exercise due diligence to prevent or respond to certain acts or omissions of non-State actors.” Thus, reflecting upon Canada’s response in fulfilling its domestic and international legal obligations, it can be argued that the

Government of Canada is complicit in the harm against women as they have not been exercising due diligence in preventing and addressing violence against women. Through ratifying the CEDAW, Canada has accepted its obligations to protect women against universal human rights violations, such as violence against women.

Meyersfeld (2010) argues that States should be able to easily categorize and recognize IPV as an international human rights violation, as many of the forms of violence involved in with IPV have already been classified as international crimes. Similarly, Rose (2015) argues that IPV goes beyond the women who have experienced IPV as it threatens and impedes upon the peace, security and well-being of the world. A study conducted by the World Health Organization found that there is “a direct threat to the welfare of significant portions of international population” with a range of 15% to 71% of women across the world who have experienced IPV (Rose, 2015). Rose (2015) also draws a distinction in the types of IPV to discuss systematic IPV where women are controlled and abuse over a period of time. Thus, IPV continues to affect women well beyond their experience of physical violence, as it continually affects their health, welfare, and personal security. In addition, as IPV is very present in families, IPV extends beyond the women experiencing the violence as many children across the world fall victim to violence as well. Therefore, as a result of the widespread, pervasive nature of IPV that affects women, children and the welfare of the State, IPV needs to be framed to be understood as an international human rights violation.

Nussbaum (2016) asserts that human rights are behind the progressiveness of women’s movements in many ways. However, she highlights the importance of having legal documents in place, especially documents such as the CEDAW. She states that there is value in having such

documents as they “help people to network across national boundaries and to develop a sense of common purpose, a common language, a common set of demands, and a sense that progress is being made; all of which are important for a movement (Nussbaum, 2016, p. 589).” Therefore, while legal instruments are crucial for holding State parties accountable, they are also useful in norm creations that transcend national boundaries to bring feminist forward movements together (Nussbaum, 2016).

By discussing the state responsibility to act with due diligence in the elimination of violence against women, Manjoo (2013) states that the due diligence standard should be used as a tool for right holders to hold the State accountable for its obligations, actions, inactions and omissions. McCorquodale and Simons (2007, p. 242) argue:

International human rights law requires a state to take measures – such as by legislation and administrative practices – to control, regulate, investigate and prosecute actions by non-state actors that violate the human rights of those within the territory of that state. These actions by non-state actors do not have to be attributed to the state, rather this responsibility is part of the state’s obligation to exercise due diligence to protect the rights of all persons in a state’s territory.

Through drawing from the work of feminist scholars and legal instruments, it becomes clear that IPV is a serious international human rights violation that needs to be addressed. Women living in Canada have the legal entitlements to be protected by the State against any form of gender discrimination including violence. Thus, it is imperative to call upon Canada to uphold its role and responsibilities in order to protect and prevent violence against women. By failing to do so, Canada is committing violence of silence by remaining inactive in their



responses to the high prevalence of violence and perpetuating violence through complicity. In addition, through framing IPV as a human rights violation, it reinforces the need for the State to ensure that immigrant women who have experienced IPV are provided with safe and accessible avenues to seek legal help.

Thus, as Canada has ratified many international legal instruments such as CEDAW, we can call upon the obligations of the country to protect and address the violence against women. It is also necessary to reinforce the notion that violence and the experience of violence are not limited to one culture or country but rather are universally present. Through acknowledging that violence against women violates universal norms rooted in inequality and safety at the core, it calls upon Canada's obligations to protect human rights and enforce gender equality as gendered violence should not be tolerated. Therefore, it is imperative to recognize that freedom from violence can be conceptualized as a universal human right and the presence of violence as a form of torture. Framing violence against women as a form of torture can be used as a *jus cogens* rule to create norms of general international laws that can be shared and reinforced (Hossain, 2005).

### **Intimate Partner Violence in Immigrant Communities**

While this paper will be examining IPV within immigrant communities, it is also necessary to recognize that IPV is not just a cultural issue but rather a gender issue as a result of patriarchal structures, as no class of women are excused from the realities of IPV (Orloff et al., 2003). Menjivar and Salcido (2002) highlight that there is a common tendency in literature to stereotype IPV in immigrant communities as an inherent part of their culture. For example, police officers believed that arresting immigrants in IPV cases was a waste of time as the

violence was a “way of life” for immigrants (Menjivar & Salcido, 2002). However, to challenge this notion using scholarly analysis, Menjivar and Salcido (2002) find that the experiences of violence in immigrant communities are often exacerbated due to their position as immigrants, language barriers, lack of jobs, uncertain immigrant status and adjustment to new cultures.

It is also important to recognize that many of those issues are connected to larger systems of oppression such as class, race, and ethnicity which further magnify immigrant women’s vulnerability to IPV (Menjivar & Salcido, 2002). Similarly, it is important to recognize the various intersecting social locations for immigrant women who have experienced IPV as their lived realities are shaped by factors such as race, ethnicity, gender, immigration status, sexuality, class, migration, and poverty. Thus, when discussing immigrant women in their experiences of IPV especially in creating policies that affect these women, it is imperative to recognize that violence is not homogeneous and policy makers and legal services need to acknowledge the individuality of their experiences of violence (Martinez-Roman, Vives-Cases & Perez-Belda, 2016).

Studies have demonstrated that 30% to 50% of Latina, South Asian and Korean immigrant women have experienced IPV (Raj & Silverman, 2002; Godoy-Ruiz et al., 2014; Ahmad et al., 2013). IPV is maintained in societies as a result of patriarchal norms, laws and social contexts that normalize male control and dominance (Raj & Silverman, 2002). While IPV is not inherent to immigrant populations, their intersecting social locations, uncertain immigration status and social contexts can increase their vulnerability to IPV, be used by abusive partners to control and abuse them and create barriers in seeking legal services (Raj & Silverman, 2002). Due to unfamiliarity with the legal system, language barriers and lack of

social support along with the intersection of race, class and immigration status, immigrant women are particularly more vulnerable to IPV in Canada (Coto, 1999). Menjivar and Salcido (2002) found that immigrant women experience a plethora of barriers when resettling in a foreign country. For example, many immigrant women enter Canada with very limited skills and cannot actively engage in the labour market, thus forcing them to depend on their husbands for financial security (Menjivar & Salcido, 2002). Similarly, Martinez-Roman, Vives-Cases and Perez-Belda (2016) argue that immigrant women are particularly more vulnerable to violence as their experiences of violence also include their challenges in resettling. Furthermore, there are major impediments in accessing legal services due to their legal and economic situations, accessing information and support in a foreign country (Martinez-Roman, Vives-Cases & Perez-Belda, 2016).

It is also important to recognize the differential understanding regarding IPV as many immigrant women do not realize that many of the accepted traditional gender norms are forms of IPV. Studies have found that Asian and Middle Eastern immigrant communities find that it is acceptable for men to discipline women through forms of physical abuse (Raj & Silverman, 2002). However, it is necessary to recognize that these cultural norms should be examined through an intersectional feminist framework to understand that the ideas are not linked to culture but rather, the larger patriarchal structures. It is important to deconstruct ideas regarding violence and culture in order to unpack the larger systemic structures that are present in the “traditional cultural norms” to understand how violence is a result of these structures, and not culture. Therefore, it is imperative to operate with cultural sensitivity when approaching women

who have experienced abuse to ensure that both the women and their culture are not judged or blamed according to Western norms and understandings.

Menjivar and Salcido (2002) problematize our statistical understanding of the prevalence of violence against immigrant women. The authors state that it is difficult to truly understand the gravity of the problem especially in the North American context, as many non-status women will not report their experiences of violence (Menjivar & Salcido, 2002). They state, “Latinas are usually grouped into a Hispanic category, regardless of citizenship or legal status, and measurements have not accounted for non-citizen women who experience violence (Menjivar & Salcido, 2002, p. 899).” As a result, these women are neglected in policies and provision of services pertaining to violence against women (Menjivar & Salcido, 2002). For example, The National Advisory Council on Violence Against Women launched a ToolKit to End Violence Against Women and “its efforts focus on immigrants only once, even though there are 16 chapters dedicated to various other groups (e.g., Native Americans, the military, etc.) in efforts to involve them in prevention and better victim services (Menjivar & Salcido, 2002, p. 899).” Thus, when understanding the prevalence of IPV in immigrant communities, it is necessary to recognize that the statistics may not be fully comprehensive as there are hidden figures.

According to police reported statistics in Canada, about 173,600 women who are aged 15 years and older experienced violent crimes in 2011 (Sinha, 2013). She found that IPV was nearly four times higher for women in comparison to men, and was characterized by physical assaults and use of physical force with 51% of the women suffering some type of injury (Sinha, 2013). Sinha (2013) found that the rates of violence were comparable between visible minority and non-visibility minority women. However, it is also necessary to consider the problems with the

statistics used, as these figures are solely contingent on women reporting their experiences of violence to police (Sinha, 2013). Yet, it is evident that violence against women is often unreported to police, as the 2009 General Social Survey (GSS) shows that less than 30% of women reported their incident of spousal victimization to the police (Sinha, 2013). Therefore, it is important to look beyond statistical figures regarding violence against immigrant women to realize how statistics may not reflect the lived realities of immigrant women due to lack of reporting to the police or being overly reliant on police reported data (Sinha, 2013).

Lee (2013) states that between 41% and 60% of Asian American women experience some form of violence at some point during their lifetime as compared with 25% to 30% of women in the general United States population. Through her analysis, she finds that often this high prevalence of violence within Asian populations is attributed to Asian “cultural norms” as Asian culture is seen to be traditionally patriarchal in comparison to Western cultures (Lee, 2013). Based on past meta-analysis studies conducted by Salazar and Cook (2002) and Yick and Oomen-Early (2008), Lee (2013) concludes that studies regarding gendered violence are often limited to an individual level analysis where violence against women is viewed as an individual problem in both a Western and Asian context. For example, she states that low self-esteem was viewed as a risk factor in Korean communities, meaning that the problem of violence was seen as residing within the individual rather than a societal problem (Lee, 2013). While Lee (2013) does draw attention to patriarchal aspects of Asian culture with the male head, and women who have been socialized to be dominated within their families, she argues that these views present a simplistic understanding of violence against Asian women. Therefore, to simply focus on

cultural issues would be to ignore a plethora of factors that provide “the social, institutional, historical and political contexts of violence against women (Lee, 2013, p. 1353).”

Drawing from the work of Crenshaw (1991), Lee (2013) highlights that it is necessary to understand the violence against immigrant women to acknowledge the specific challenges that they experience through a nuanced analysis of the social, political, and economic factors (e.g. class, race, ethnicity and sexual orientation) in order to have a comprehensive understanding of each woman’s specific experience of violence. By doing so, it not only informs our understanding of the challenges experienced by immigrant women but it also progresses the gender justice as well (Lee, 2013). Thus, while analyzing the experiences of violence as experienced by immigrant women, it is imperative to recognize the larger structures and various intersections in the lives of immigrant women (Lee, 2013).

### **Barriers for Immigrant Women and Legal Service Providers**

Immigrant women who have experienced IPV face various barriers when and if they choose to seek legal services. Similarly, service providers also experience various challenges in providing accessible and effective services for immigrant women who have experienced IPV.

Firstly, both immigrant women and service providers experience difficulty as a result of language barriers (Coto, 1999; Raj & Silverman, 2002). Language can act as a huge barrier for accessing legal services for immigrant women in many ways. Language can impede immigrant women’s success in the financial stability they require to leave their abuser (Menjivar & Salcido, 2002). Due to their limited language skills, many immigrant women experience difficulties in finding employment, forcing them to rely on their abusive husbands (Menjivar & Salcido, 2002).

Lee (2013) states that while the average wait time for public assistance may be two hours, services for immigrant women who are not proficient in English may take up to four hours as they have to wait for an interpreter. She explains that this is also a problem in courtrooms as clients are forced to wait long periods of time over the span of weeks until a suitable interpreter is available (Lee, 2013). This long wait period for clients as a result of the language barriers can often discourage many women from seeking legal services (Lee, 2013). Immigrant women are often unaware of the services that are available as a majority of information is written solely in English, so they are unable to communicate or access the information and resources available (Coto, 1999). Additionally, many immigrant women are unaware of their option as their abusers may provide false information about the Canadian legal system and threaten deportation if they seek action (Coto, 1999). However, it is also necessary to recognize that the current service providers are lacking in their services for immigrant women as there is little outreach to immigrant populations and a lack of culturally sensitive understanding of abused women's outlook (Raj & Silverman, 2002; Singh, 2010).

Immigration status can often act as a barrier for immigrant women seeking and accessing forms of services (Lee, 2013). Lee (2013) found that at the New York Asian Women's Center (NYAWC), about 18% of the clients were undocumented or without status meaning that they were susceptible to deportation, while another third only had temporary status. As a result, these women were constantly scared that they would be arrested or deported which would often prevent many of them from seeking help from legal services (Lee, 2013). In New York City, an official police report regarding the violence experienced by women is required in order to accommodate safe housing, but due to the fear of deportation, many women are forced to stay in

their abusive households (Lee, 2013). Furthermore, a case manager at NYAWC found that because many women do not seek services due to their lack of status, they do not qualify for relocation as there is no documented evidence of their experiences of violence (Lee, 2013). Many of the current services also require proof of citizenship or knowledge of English to access services, which often limits the women who are able to access such services (Ingram et al., 2010). Therefore, it is important to recognize how immigration status can be used to either prevent immigrant women from either seeking legal services or to deny women access to legal services.

Help seeking behaviours are also a great challenge for service providers as many migrant women will not come forward with their experiences of violence (Hyman et al., 2006). As a result, IPV continues to remain hidden for most Canadian women, both immigrant and nonimmigrant who experience violence (Hyman et al., 2006). The authors found that when IPV was reported, a majority was reported to informal sources of support, with a small portion reporting to police and an even smaller portion who sought out social services (Hyman et al., 2006). Interestingly, they found that more recent immigrants were much more likely to report their violence to the police and less likely to use social services (Hyman et al., 2006). Wright and Bertrand (2017) find that help seeking behaviours of women who are accessing services can be negatively affected with some conditions imposed by public services. For example, some services aimed at ending violence against women require income eligibility guidelines, or impose a requirement to end their relationship. Therefore, it is important to recognize that there are challenges created by immigrant women's hesitancy to seek legal services coupled with



restrictions on accessing services which may further discourage immigrant women from seeking such services.

Furthermore, legal services that are lacking cultural competency may discourage immigrant women from seeking out legal services (Wright & Bertrand, 2017). Cultural competency refers to understanding that clients have individual needs based upon their religious, socio-economic, cultural and ethnic backgrounds, and operating in a way that acknowledges their individual needs and provide services in cross-cultural settings (Wright & Bertrand, 2017). Thus, it is important that legal services are aware of cultural nuances as cross-cultural barriers can prevent many immigrant women from seeking legal services.

There are financial barriers for both legal service providers and immigrant women in providing and accessing legal services. Many legal services, especially those that are not-for-profit experience difficulties in obtaining funding (Lee, 2013). Lee (2013) found that violence organizations and services are pressured to show positive outcomes of their services to both government and private funders to secure further funding. There are also financial barriers for immigrant women as many cannot afford to seek legal action against their abuser (Ingram et al., 2010; Kulwicki et al., 2010). Due to their limited language, deskilling practices and the already existing sexism entrenched in the labour market, many immigrant women are forced to rely on their husbands for financial support (Singh, 2010). Research finds that a woman's access to financial resources determine the types of services she can access, and that women who are financially independent are much more likely to seek legal action (Barrett & Pierre, 2011).

Lastly, similar to any other mother, immigrant women may continue to stay in abusive relationships and be hesitant to seek legal action for the fear of losing their children (Ingram et

al., 2010). Wright and Bertrand (2017) find that many immigrant women may not come forward about their experiences of violence or remain anxious when dealing with service providers as they fear they may lose their children by reporting the violence. This becomes especially complicated if the child is Canadian born but the mother is not, and has the fear of deportation as well (Coto, 1999). Immigrant women may not have the financial means to take care of the child alone, so, they may rely on the financial resources of their partner to ensure that their child is taken care of (Kulwicksi et al., 2010). Many immigrant women also experience great levels of shame in leaving their abusive husbands (Menjivar & Salcido, 2002). Menjivar and Salcido (2002) found that Indian, Pakistani and Korean women living in Chicago found it especially difficult to leave their abusive situation as they had to negotiate between what is expected of them from their families and how they can escape their abusive households. Tabassum (2013) also mentions that for many immigrant women violence is viewed as a personal matter that can be resolved within the family or community and that if they go forward with reporting their experiences of violence, they will bring shame upon the family. Thus, there are a variety of factors that need to be considered when providing legal services for immigrant women who have experienced IPV.

### **Chapter Three: Methodology and Design**

#### **Research Design**

The present study used a qualitative interpretive descriptive design to analyze the semi-structured interviews with service providers. I chose to use a qualitative research design with interviews over quantitative design to provide a voice to service providers and share their

experiences with immigrant women who have experienced IPV. Qualitative interpretive descriptive design was used in order to apply meaning based analysis to the information gathered in the interviews through informed questioning, reflective and critical examination for the purpose of informing our understanding (Thorne, Reimer-Kirkham, & O’Flynn-Magee, 2004; Elliot & Timulak, 2005). This method was used to analyze the experiences shared by the service providers through an intersectional feminist lens in order to emphasize the diversity in the challenges experienced by immigrant women and service providers.

This study also used a discourse analysis regarding the judicial discourse used by legal service providers when discussing immigrant women who have experienced IPV. Judicial discourse refers to the rhetoric and language used by legal officials to speak about specific issues. The discourse was analyzed to draw out common themes and frequently used language regarding immigrant women. I believe that the judicial discourse complements the interviews and qualitative interpretive descriptive design to act as a point of comparison with the existing literature regarding the challenges service providers have in providing legal services for immigrant women. In order to find these cases, I used LexisNexis, which is a legal database with an entire collection of Canadian case law. Using their search function, I searched for the key words of “immigrant women” and “violence.” The search was then narrowed to cases within the Ontario jurisdiction from the years 2000 to 2017. I chose to include four cases that related to the topic regarding IPV experienced by immigrant women.

In this study, three legal service providers were interviewed through semi-structured interviews regarding their experiences in providing legal services for immigrant women who have experienced IPV. In the interviews, service providers were asked to discuss problems

inherent in the Canadian legal system, what legal services are offered and the various barriers they encountered when providing services.

I used triangulation in my research to gather data from multiple sources in order to provide an understanding of the necessity of accessible legal services for immigrant women who have experienced IPV. To provide a holistic understanding of the present research I drew from legal instruments and feminist scholars to frame IPV as a human rights violation. Additionally, I used existing literature from intersectional feminist scholars to discuss the needs of immigrant women who have experienced IPV and I combined it with data collected from the interviews with service providers.

I chose to focus my interviews on service providers rather than immigrant women who have experienced IPV because I feel that it is important to understand what barriers service providers experience. This approach provided an insightful view of the changes that need to be made for more effective legal services. Furthermore, there is scant literature written from the perspective of service providers of legal services. I believe it was beneficial due to their close ties to immigrant communities as they highlighted themes and observations they have made through working with the community. Additionally, front line workers provided the realities of the policies that are in place to inform readers of what needs to be changed. Therefore, interviewing service providers provided insight into how legal services for immigrant women who have experienced IPV can be improved.

## **Recruitment**

In order to recruit participants to participate in this study, it was necessary to first obtain ethics approval from the Ryerson Research Ethics Board. Once ethics approval was obtained, I emailed legal service providers who work with immigrant women who have experienced IPV using a prepared and approved email script. I found all of the legal service providers by googling legal clinics in Ontario that work with immigrant women who have experienced violence. I contacted all the participants over email with an email script that included a brief summary of the present research, a few research questions and contact information for further information. All potential participants were asked if they would like to volunteer for an in-person interview regarding the challenges in providing legal services for immigrant women who have experienced IPV. Participants were all informed about their confidentiality and options to withdraw from the study at any time. Participants were also provided with the interview questions ahead of time before the in-person meeting to ensure that they were aware of the subject matter and informed that they should not speak about specific cases. Interviews were conducted by myself at a mutually convenient time and location.

## **Ethical Considerations**

To combat possible ethical issues regarding confidentiality and forced participation, participants were informed of their rights and the time and commitment made to ensure that their information was protected and confidential. Before beginning the interviews, participants were informed verbally and through an informed consent regarding the sensitive nature of the interview questions, the voluntary and confidential nature of the study. Participants were

informed that they were able to withdraw from the study, skip any questions or stop the study at any point. Participants were given information regarding the study, purpose of the study, what their participation means, rights of confidentiality of information and how the data will be stored and destroyed. All of this information was also provided on an informed consent form which participants were given to review before beginning the study. Participants were also given time to ask any questions before, during and after the study. Thus, issues of confidentiality were reduced as their names were not linked to their responses, their names and places of employment were not mentioned in this study and their consent form and data were stored separately. All data were stored in password protected computers and locked cabinets and were only accessed by the researcher.

### ***Positionality***

Throughout this paper, I intend to engage in reflexivity to reflect on my thoughts, positionality and rationale. Elliot, Ryan and Hollway (2011) argue that reflexivity in qualitative research can act as a rich source of data as it creates a space where researchers are able to reflect on their own experiences as a production of knowledge. One aspect of reflexivity is discussing positionality. Ganga and Scott (2006) provide an excellent discussion regarding the issues surrounding insider/outsider status and positionality in migration research. They argue that positionality is a central component in the process of qualitative data collection (Ganga & Scott, 2006). I feel it is necessary to address my own positionality in this research to discuss potential biases and limitations. I am a first-generation immigrant woman from India who has been living in Canada for the past 17 years as a Canadian citizen. When asked about my identity in Canada, I have always identified as Indian without ever mentioning my Canadian upbringing. However, I

have not been back to India and do not necessarily follow many of the Indian customs and traditions. Yet, I still feel a strong connection to my Indian background. I often find myself feeling the need to prove both my Indian-ness to other Indians and Canadian-ness to other Canadians. I would argue that my Canadian upbringing, the negotiation and often conflicting ideas regarding my identity has definitely created this space that has influenced my ideas and research. I acknowledge my privilege of being an educated Indian woman with a strong family and social support who allow me to pursue my research interests. I also acknowledge my position as a woman of colour and how it constantly forces me to consider the experiences of women of colour in my writing.

With this current study, I was very motivated by own experiences within South Asian communities. I have noticed and observed how many issues around violence against women are often dismissed, ignored and even, shamed. It is very rare that women actually come forward to share their experiences of violence, and even when they do, their experiences are invalidated and shunned. I have heard personal cases where women were either ostracized or subjected to further violence when they came forward about the violence they were experiencing. Growing up with this stigma around violence, it almost became normal to accept that this was the appropriate response to violence against women in my community. However, after having discussions with my own family, studying criminology and researching violence against women, I knew that I had to use my voice and privilege of having a platform to address an aspect of violence against women. I also want to emphasize that through problematizing some aspects of South Asian communities, my aim is not to create an open invitation to demonize immigrant communities but

rather facilitate a discussion with community members about necessary changes that need to be made.

I realize that using my insider privilege, I could have interviewed South Asian immigrant women about their challenges in accessing legal services following their experiences of IPV. However, I know that I would not be able to listen and write about the experiences of South Asian women who have experienced IPV objectively. I also know that I would not be able to listen to their stories without empathizing and breaking down and I am not sure if I am ready to be in the place of vulnerability with my research. I made an executive decision to continue to include their voices in my research through existing literature while taking a step back to understand the challenges experienced by service providers in creating accessible and affordable services for immigrant women.

However, I would like to note that it is very possible to have similar problems with legal service providers if they too were women who have experienced IPV. Therefore, my rationale for interviewing service providers needs to be framed in terms of power. Legal service providers are in positions of power where they have the capacity to effect change and create norms regarding violence against women. Through interviewing legal service providers, I am utilizing their positions of power to create norms and an understanding of IPV through a service provider lens. I recognize that legal service professionals have the power to create norms not just within legal contexts but in everyday understandings of violence as front-line workers (MacDonald, 2002). By directly communicating and working with immigrant women, service providers are in the position to inform their understandings regarding IPV. Similarly, through using judicial discourse analysis, I would like to call upon constitutional courts to recognize the denial of



gender inequality that occurs with all acts of violence against women (Orlova, 2017). As the courts have the power to influence and play a major role in shaping norm creation, it is necessary to problematize both practices and language used by the courts (Orlova, 2017). Thus, I would like to use their positions of power and their understanding of IPV gained through their front-line experience to aid in the creation of norms regarding violence against immigrant women.

### **Participant Profile**

Participant 1 is a staff lawyer who has been working for a clinic funded by Legal Aid Ontario since 2013. She is currently working on educational projects regarding issues of social justice, equality and access to services for immigrant and marginalized individuals. Participant two is a legal and family court support worker who is currently employed at a non-profit organization that works to support women who have experienced violence through the family law process. Participant three is a legal support worker for a community based, not-for-profit organization that works to prevent violence against diverse women by providing education for women on family law matters.

### **Data Collection**

The data was collected through three interviews with legal service providers in Ontario. The interviews were conducted at a mutually convenient location and time. All interviews were conducted to ensure there was aural and visual privacy to ensure the confidentiality of the research participants. The semi-structured, qualitative interviews took approximately an hour each including the ten to fifteen minutes dedicated to the informed consent process. Participants

were asked for their consent to audio-record the interviews for transcribing purposes and were told that only I, as the primary researcher, would have access to these recordings. The audio-recordings were stored in password protected files and were destroyed following the transcription process.

Data was also collected through LexisNexis from Ryerson University. The data was analyzed through an intersectional feminist lens to highlight any problems or themes that were present in the case.

### **Data Analysis Technique**

The data collected through the interviews with service providers were prepared and organized for transcribing purposes. The audio recordings were transcribed and the notes taken throughout the interviews were also examined for reflexivity purposes (Creswell, 2007). To analyze the data, I used inductive thematic analysis and open coding (Bryman, 2001) to be alert to the themes that arise from these interviews to draw attention to the barriers experienced by service providers in providing legal services for immigrant women. Additionally, using prior research driven method coding, I examined the themes that were present in the interviews in comparison to existing literature. I used open coding to be alert to the themes that arise from these interviews to draw attention to the barriers experienced by service providers in providing legal services for immigrant women. The data from the case law was analyzed to be alert to any issues regarding violence experienced by immigrant women. All the data was analyzed through an intersectional feminist framework for further discussion and recommendations.

## **Chapter 4: Findings**

### **Interviews**

Through three interviews with legal service providers, a few common challenges were identified. While all of the participants provided different types of support and legal services for immigrant women who experienced IPV, they all mentioned the same challenges. The four main challenges that were identified through the interviews are financial barriers, cultural differences, precarious legal status and language barriers.

#### **Financial Barriers**

All three participants identified different types of financial barriers that they experienced while providing legal services for immigrant women who have experienced IPV. Participants were asked if their clients were required to pay for their legal services. Participant 1 discussed Legal Aid Ontario (LAO) as her clinic was funded by LAO. She stated that her clients are not expected to pay for services by saying, “we don’t have a cost per se because we are part of the legal aid clinic system, there is cost associated for certain immigration procedures so we can’t cover that cost, unfortunately.”

Similarly, participant two described the services offered at her place of employment by stating that, “there are no fees to our services.” In addition, she outlined the services offered by stating:

We don’t provide any for-fee legal services nor do we have a lawyer who retains clients.

We have our Pro Bono Clinic one morning, per week for clients who do not have a lawyer or cannot afford a lawyer. The lawyers in the Pro Bono Clinic are lawyers from

our community who volunteer their time to our clinic. Clients may access our Pro Bono clinic multiple times to receive legal advice on their case and we will book an interpreter in the appointment to ensure immigrant women fully understand the legal advice provided.

Participant one also mentioned that there are financial and cultural barriers that prevent immigrant women from seeking legal help. She stated:

but most of our cases are immigrant women who have recently arrived but we do get people who have been in Canada for a couple of decades or a number of years before they decide to do something and we have people who are recently in Canada and don't have employment and are dependent on their partner for their day to day so it comes in various forms, not just immigration.

Participant two discussed the financial barriers that are often present for immigrant mothers with children that can often prevent them from seeking legal services. She said:

Immigrant women who do not have family and community supports can struggle to attend appointments with our agency and lawyers as well as court dates without their children. As a result of no childcare and the language, they struggle to find employment and if they are unable to obtain Legal Aid, they are forced to be self-represented in family court.

Similarly, participant one discussed how financial barriers often force women to stay in abusive households or discourage them from seeking help. She said:

If they need then means of shelter, if they don't have connections here, then we do give them shelters that they can go to or ask to go, usually we are not involved and they wouldn't really have a way to get there but shelters can pay for taxis, if they don't have access to cash or money right away, it's okay, leave or you should leave.

Participant three also discussed that in order to help immigrant women with their finances, they are "able to connect them to shelters, organizations who do safety planning and counselling services."

However, when discussing the challenges participant one experienced as a legal service provider, she mentioned that while her clinic is funded by LAO, it is difficult to provide services for all the cases they receive. She said:

I think, part of it is, in general, we are very thankful to have funding, it's just having enough people right, we are one clinic, as I said, we are 6 people, and so it's hard to be everywhere and our own people have to look at the merit of certain cases sometimes and whether or not, it is something we can assist or not, but in many cases, we end up doing most of the time anyways, whether or not we have the capacity so there's capacity issues as a service provider.

### Cultural Differences

When asked about the challenges experienced as legal service providers supporting immigrant women who have experienced violence, all participants discussed aspects of cultural barriers. Participant two stated, "It can be difficult for immigrant women to understand the family law process due to language barriers and cultural understanding. Immigrant women can

be stigmatized by their family and community for wanting to leave their ex-partner. She can experience multiple forms of abuse including immigrant/cultural abuse by their ex-partner.”

Participant one discussed the benefits of being an ethnic focused legal clinic which is funded to specifically aid South Asian clients. She argued that their own South Asian background and immigrant experience has greatly contributed value to their work by stating:

We are a little different as a clinic because the people who work at the clinic are from similar backgrounds and the training itself and the needs from our clients. We meet people, and you are unaware and think you didn’t ask that or think about that that way, so go back and reassess how we do something and point that out and that may be health concerns, and a lot of it comes from the needs of our clients.

Regarding the cultural competency and sensitivity training at her placement of employment, participant two stated:

We require all our employees to embody an intersectional feminist and anti-racism anti-oppressive framework. Although we do not provide any culturally sensitive training, our employees do participate in trainings offered by other agencies on areas such as immigration law.

Similarly, participant three said:

...our organization operates from an anti-oppression, anti-discrimination framework, which we take very seriously. All of our staff and volunteers should be trained on the principles of anti-oppression, anti-discrimination theories, and we will offer multiple

opportunities to staff and volunteers to improve/update their knowledge through variety of internal and external trainings.

When asked about what is required from clients who seek their legal services, participant one said that clients are required to be South Asian as the clinic is funded to provide services for South Asians. She stated:

Because we are funded to serve South Asians, we do ask people how or what they identify as, it's part of our intake process for legal representation. We let them define the word South Asian so we can include people from parts that we may consider Middle East but they consider South Asian, people may come from Indo-Caribbean heritage, so things like that. We do assist non- South Asians with some legal issues but with representation, that's one of our requirement (*for them to be South Asian*)

Participant one also mentioned that it is important to recognize that there are many differences with South Asian cultures by stating:

With Middle Eastern, it's not just about languages but about cultures because even with South Asia, there are so many cultural differences, so there may be a lot of differences. Someone from one specific area may be hard to understand because of their culture but it becomes easier to understand when it is own culture.

Participant one also mentioned that she finds that there are barriers created by cultural differences by saying:

There are challenges in providing services for women, specifically immigrant women, often we do have cultural issues where people are afraid to ask for advice, it takes them a

while to do that, or whether you want to provide the advice, you can give the advice but actually doing something about it can be very challenging for people who are trying to reassure them of the fact that they have their own rights as a person here because in the violent situation they're in.

However, participant one stated that even if clients do not feel that they are ready to take action against their abuser, they should still have access to this information. She stated:

In the end, asking them what they want to do, people are not always ready to use the information, sometimes they are ready to leave but don't know where to go, so what they want to do next, what they are looking for, and how we can support them.

While speaking to cultural differences and sensitivities that need to be considered when working with immigrant women, participant one mentions that there may be issues with providing language translations or services in certain dialects due to conflicts from their home lands. She stated:

We often do get clients in our satellite clinics who do speak to us in various languages and with interpretation, it can go so far if you speak a specific dialect or there's often conflict between countries, there be may political conflicts, so a person may not be so trusting if they figure out if they're from somewhere, so while it may not - may not - make a difference in Canada but from the place they're coming from, it may have that mistrust, so it happens often.



However, participant one spoke to the importance of having cultural competency when working with immigrant women and understanding the differences in approaches to issues such as marriage or family by stating:

We have people who come in and say that they don't have any way to get back home which to them means a place where they lived in, but their family doesn't want them back because they're married and having that understanding or not having that understanding can be difficult to understand and then when it is reiterated, it becomes an assumption that that's how everyone here is and it can turn to stereotypes – it is not a challenge for providing legal services per se but it can be when you approach people who may not have that context of understanding and it can turn into a different conversation altogether.

### Precarious Legal Status

In the interviews, participants were asked whether a client's legal status was required or important for accessing their legal services. Participant two stated:

A woman's immigration status does not impact how we deliver legal services to her but it could have an effect on her family court case and we could assist her in obtaining legal advice on her immigration case. For example, we could provide her with referrals to immigration lawyers.

Similarly, participant one said that:

We ask about immigration status more in the context of understanding any intersections of issues for advice so if I knew a person, for example, so a woman calls us and says she

experienced domestic, knowing whether she is a citizen or PR will add additional advice, so if she's a citizen, she won't have implications on her immigration status, however, if she's PR and for example, the partner makes a self-claim against her to the police, there could be repercussions on her PR so to make her aware, for that purpose (*we ask about immigration status*).

She also spoke about the challenges of having clients with precarious legal status, as many are discouraged from seeking legal services as they fear deportation. She said, "often times, they'll tell them that they'll have you deported or that we can do this to you, which they can't, so having that barrier to, having that understanding about their autonomy is challenging." While expanding on the challenges of providing services for clients with precarious legal services, she stated:

I've come across cases often where women are told that if they don't do something or listen to me, we are going to send you back or, they'll have them kicked out of Canada, and that they're not a citizen, so we try to explain to women, so hopefully if we have explain it to one or a few people, in not the exact wording but more or less that "no one has the power to get you kicked out" and that even if there a procedure started where you have not met the requirements of PR, you have rights and appeals to make, so no one has the power to do that, we teach that in our class, and try to get the message across that no one has the power to do that really – that's what we try to get people to understand.

Participant two also found the same issues regarding the misrepresentation of information regarding deportation. She stated, "Her ex-partner can threaten to cancel her sponsorship,

provide false information about the immigration process and use their cultural practices to isolate them from accessing services.”

Similarly, participant one spoke about how important it was to inform clients that services do exist and that regardless of their legal status, they should come forward to seek legal services to be advised about their various options.

it can be asset because not everyone knows that there is such thing as a legal clinic or access to settlement agencies where people can provide them with information and resources, we use communities and community centers and social gatherings and things like that become spaces of information, so while that is challenging, getting across that deportation is not automatic and that you should seek help if you are here on a temporary status with work or study visa that deportation looks different so you have different rights, and you may or may not have information, so that becomes even more delicate in comparison to PR so we encourage people to come forward and access even services from geographical clinics.

### Language Barriers

While the participants expressed there may be language barriers when working with immigrant women, they also described the procedures in place to overcome such barriers.

Participant three said:

we administer a campaign called Family Law Education for Women that provides plain language, easy-to- understand family law information in accessible formats (large print, braille, audio, etc.), as well as multiple languages (English, French (administered by a

sister organization in Ottawa but incorporated in our website), Punjabi, Urdu, Spanish, Arabic, Chinese Simplified, Chinese Traditional, Russian, Persian (Farsi), Korean, Somali, Tamil and American Sign Language). We also have culturally sensitive materials for Muslim Women and Jewish Women under this campaign in a variety of languages. For in-person/ Email inquiries, I am fluent in English, French and Farsi, so I can answer inquiries in these languages.

Similarly, Participant two stated:

...immigrant women want to have a lawyer who speaks their first language but unfortunately there are a limited number of lawyers in our region who are bilingual...our services are offered in English but we will request an interpreter for women who need it. We provide our written materials in English as well as French. We access websites such as FLEW (Family Law Education for Women) and CLEO (Community Legal Education Ontario) to provide resources to clients in other languages. We use intersectional feminist language. When women start services with our agency, we will complete an intake which includes questions on her first language. If she requires an interpreter, we will book an interpreter and complete a detailed intake with an interpreter.

As participant one's legal clinic was specifically funded to serve South Asian clients, the issues of language barriers are not as apparent as they might have been with a non-ethnic specific legal clinic. While recounting the languages she speaks, she stated, "I speak Hindi and Urdu, and we also have people who speak Gujarati, Bengali, Tamil, Kannada and French, that doesn't come so often but for anything else, Legal Aid has the contract with translation service." She also discussed the process around providing legal services in other languages by saying, "regardless

we do accept language first, so if a client may be comfortable in another language that is not English, we will put them with the staff, with that person that speaks the same language for ease with communication, otherwise, anyone is able to help.”

One specific challenge she brings forth regarding language barriers is:

as we cannot cover every South Asian language, it’s not specifically South Asian, but especially, there’s a big gap as we don’t have a clinic for people who speak various Middle Eastern languages and while we do try to help people and some clients who are Afghani defend, but there’s a bigger population who needs the services but it’s not there, we tried to mobilize like how SALCO came together, we need that type of movement.

Through the interviews, it became clear that there are significant barriers experienced by legal service providers in providing services for immigrant women who have experienced IPV. In order to complement the qualitative interviews with the legal service providers, judicial cases were analyzed to understand the norms and language used by legal personnel. Some of the same issues that were raised in the interviews were apparent when the cases were analyzed through an intersectional feminist lens.

### **Case Analysis: Judicial Discourse**

It is necessary to unpack the language used in case law to understand the discourse used amongst legal personnel. Looking through Ontario case law, this analysis will break down the language used and the assumptions made in regards to immigrant women who have experienced intimate partner violence.

R.S. v. M.S.M. (2016)

In the case of R.S. v. M.S.M. (2016), an immigrant woman (R.S.) who was sponsored to Canada by her husband (M.S.M) received child and spousal support and a temporary restraining order against her husband after experiencing violence. The language used to describe R.S. is very much linked to her role as a mother. Throughout the case, R.S. is referred to as mother and her roles and responsibilities as a sole caregiver are highlighted (R.S. v. M.S.M, 2016, paragraph 46). However, the language used in this case seems to take into consideration the effects of violence against women. For example, Justice Sherr stated, “She was the sole caregiver for the child. This role would likely compromise the mother’s ability to earn income (R.S. v. M.S.M, 2016, paragraph 46).” Similarly, Justice Sherr takes into account her vulnerability as a sponsored immigrant wife who is now separated from her husband and forced to raise a child on her own. Justice Sherr stated:

The circumstances of the mother and the child had been disadvantaged due to the father’s failure to pay adequate support. The evidence pointed to the father contributing to the mother’s economic disadvantage by his perpetuation of domestic violence (R.S. v. M.S.M, 2016, paragraph 68).

The language used in this case reinforces the caregiver role that many women assume. Through constantly referencing the applicant as the mother, it simplifies her identity as a mother, while neglecting other aspects of her identity. It seems as if Justice Sherr wanted to emphasize her role as a mother to draw attention to her vulnerable socio-economic status which is a direct

result of her experience of violence. Through acknowledging the effects of violence and how it affects women in a broader sense such as her ability to raise a child alone, the language used creates norms regarding violence, immigrant women and mothers that can then be shared. Through the norms created in this case, violence is then conceptualized as contributing to her inability to care for her child.

Through an analysis of this case, there are larger issues that can be drawn out. The first is the issue regarding financial stability and economic vulnerability. The court assumes traditional heteronormative gender roles for this family as M.S.M is seen as the breadwinner with the money, and R.S. as a caregiver who is dependent on the father's money. Through reinforcing the positions for M.S.M and R.S., it becomes clear that the court is implying that as a result of the violence which forced R.S. to leave the M.S.M, R.S. is significantly disadvantaged in her financial stability. In addition, the language used conceptualizes violence as contributing to her inability to take care of her child. These norms regarding financial instability caused by the absence of the father is strongly related to a patriarchal understanding of family. By framing financial instability through traditional family norms, it creates the assumption that R.S. and the child are disadvantaged as there is no father figure rather than focusing on the loss of total income from the family.

This case also provides insight into how the court functions. While many of the issues discussed in this case are a direct result of the violence inflicted upon by R.S. by M.S.M, the court focuses on the application and treats the violence as secondary. As the application is regarding child support and a temporary restraining order, the violence discussed is used to complement the application rather than be the central component of the case. As the broader

problems with violence are ignored, certain unfortunate implications may be drawn such as the role of women in a marriage and gender norms. The view of violence in the court is very functional as the court must deal with the concrete issues brought forth with the application, so the freedom from violence as an a priori norm is not addressed.

Achakzad v. Zemaryalai (2010)

In the case of Achakzad v. Zemaryalai (2010), the father (Mr. Zemaryalai) applied for an order which required the return of his child to California. His application was dismissed as there were prior incidents of assault against the mother (Ms. Achakzad) which resulted in Ms. Achakzad leaving California to flee to Toronto (Achakzad v. Zemaryalai, 2010). The language used throughout the case framed the violence as allegations and possibilities rather than documented acts of violence (Achakzad v. Zemaryalai, 2010, paragraphs 38-54). While referring to photographic evidence and recalling charges against the father, Justice Murray continued to discuss the violence as mere suspicions, even though Mr. Zemaryalai's claims were dismissed solely because of the violence inflicted against Ms. Achakzad (Achakzad v. Zemaryalai, 2010, paragraphs 38-54). The language reinforces the notion that regardless of the evidence and even claims being accepted, violence and women's claims about them will not be taken as fact but will remain as accusations (Achakzad v. Zemaryalai, 2010). In the case background, it was stated:

The mother's account of prior assaults and the incident which culminated in her leaving with the child was accepted. There was no ulterior motive for the mother to leave California, as her life appeared idyllic. Her standard of living drastically declined upon leaving for Toronto, where she lived in crowded low-income housing. The photographic



evidence was powerful objective evidence of violence suffered by the mother (Achakzad v. Zmaryalai, 2010, paragraph 3).

However, the language used throughout the case still referred to Ms. Achakzad's statements regarding the violence as allegations: "The mother alleged that the father beat her and she fled their home in California with the child (Achakzad v. Zmaryalai, 2010, paragraph 2)." The language used imposes a duty upon women to constantly have to prove and justify their statements through different forms of evidence, while those statements are still represented as allegations and claims (Achakzad v. Zmaryalai, 2010, paragraph 2). The manner in how the court discusses the statements made by the woman provides insight into the way courts function. If there are no criminal charges, the court must continue to reference the evidence of violence as allegations as the court has no choice due to the presumption of innocence and the lack of criminal charges. Even though there is documented evidence of the violence, the lack of charges implies that the violence cannot be lawfully recognized as a crime before the court. This type of questioning and processes can also lead to revictimization as women must continually work to prove their "victimhood." Therefore, through acknowledging the violence that Ms. Achakzad suffered while continuing to reference those statements as allegations, the language invalidates the statements of Ms. Achakzad.

This case also provides greater depth into the understanding of issues that may arise through cases with many intersections such as violence, immigration status, children, and economic vulnerability. This case also abides by the heteronormative gender roles as it emphasizes that Ms. Achakzad is significantly disadvantaged after leaving her husband rather than focusing on the loss of total income for the family, or change of location. Through discusses

economic vulnerability, the courts reinforce patriarchal understanding of family roles. There are also issues of fear of deportation, as Ms. Achakzad does have the fear that she may be sent back to California from Toronto as she fled from her home with her child. This is a very real fear for many immigrant women which often prevents them from coming forward with their case.

Additionally, the fear for the safety and wellbeing of her child is very apparent as she fled her house where she was living comfortably to move to Toronto where she was forced to stay in low income housing. The fear for children is also a very real issue for many immigrant women who have experienced violence as many are forced to stay in abusive relationships as they feel it may be the best decision for their children for economic security and to prevent potential violence against their children. Additionally, many women do not come forth with their experiences of violence if they have children for the fear that they may lose their children. This becomes especially complicated when considering immigration status and the fear of deportation. Through this case, it is evident that there are many issues that need to be considered when providing legal services for immigrant women as the cases go beyond the experience of violence. Thus, in order to understand a case, it is imperative to explore the complexities of the case to understand how larger systems such as court functioning, patriarchal understanding of families, fear of deportation and fear for children all connect to create vulnerable circumstances for many immigrant women.

#### R. v. Jabaerizad (2002)

In the case of R. v. Jabaerizad (2002), the accused was being sentenced on charges of assault and uttering a death threat against his wife four days after they arrived in Canada as immigrants from Iran. As this was a matter of sentencing, the case provided the transcript from

the court which showed the questions asked and issues discussed. In the section where the wife (Mrs. Montahan) was cross-examined by Mr. Fanaian, the counsel for the accused (Mr. Jabaerizad), the questions were problematic as they seemed to blaming and revictimizing Mrs. Montahan.

While referring to her statement regarding the 20 years of abuse that she had endured, he asks about the frequency of violence by stating, “So you are telling that he was beating you for thousands of times (R. v. Jabaerizad, 2002, paragraph 52)?” He continues to interrogate her by asking why she did not ask for a divorce throughout the times where she was being beaten (R. v. Jabaerizad, 2002). When Mrs. Montahan answers the question by discussing the difficulties she experienced when asking for a divorce in her Baha’i community, Mr. Fanaian continues to ask her about the frequency and severity of the violence (R. v. Jabaerizad, 2002, paragraph 54). For example, he asks, “How did he assault you? How did he beat you in those numerous times? How (R. v. Jabaerizad, 2002, paragraph 60)?” He also asks Mrs. Montahan about the hospitals she visited, by saying, “After so many times of being assaulted, and you probably had injuries, you must have been in hospital numerous times. Could you give us some indication of the dates and the hospital’s name (R. v. Jabaerizad, 2002, paragraph 76)?”

The manner in which Mr. Fanaian was questioning Mrs. Montahan reflects acts of victim blaming and lack of trust in the credibility of women. Rather than approaching the violence on a more factual basis, Mr. Fanaian specifically questions Mrs. Montahan to ensure that she has to call upon painful memories and experience revictimization. Mr. Fanaian continues to engage in victim blaming behaviour by saying, “So you're telling us, Ms Montahan, that in all those thousands of cases, you were absolutely an angel? Absolutely innocent (R. v. Jabaerizad, 2002,

paragraph 92)?” Similarly, Mr. Fanaian dismisses the additional factors that are involved in cases of violence, such as how the violence or divorce would affect children. For example, he asks, “And you did not ask for a divorce just because of losing your children (R. v. Jabaerizad, 2002, paragraph 63)?” By phrasing the question as such, Mr. Fanaian creates the assumption that it is easy for mothers to leave their children to escape violence. These are very problematic statements which should have been objected as there were no actual questions being asked.

In addition, Mr. Fanaian discusses violence as if it is inherent to a specific culture. He says, “With regard to what would happen from now on, Your Honour, historically, those domestic assaults that we heard, what's claimed by the witness, happened in an entirely different culture and tradition (R. v. Jabaerizad, 2002, paragraph 157).” Claiming that violence is limited to one culture or only occurs in a singular culture and tradition reinforces the notion that cultures are inherently violent. Therefore, through the language used in the case and the questions asked by legal personnel, it is evident that there are problematic cross-examination tactics that not only blame women but create situations that force them to recall traumatic experiences.

The main issue in this case is not the questions and the manner in which they were asked, but rather it is the adversarial nature of the court system. The questions asked stem from the adversarial nature of the system as it is the duty of the lawyer to diminish and question the credibility of Mrs. Montahan in order to attack her case. Due to the adversarial nature of the criminal justice system, many women often experience revictimization as they are forced to recount their experiences of violence and prove their vulnerability and innocence. If they fail to adequately explain their experiences of violence or justify their actions, their case will fall through. Therefore, it is necessary to emphasize that while Mr. Fanaian’s questioning is

problematic, the real issue is linked to the entirety of the criminal justice system as it has the power to revictimize individuals who have experienced violence. The manner in which Mr. Fanaian was questioning Mrs. Montahan was only allowed due to the nature of the court system. It is often this adversarial nature of the court system which prevents many women from coming forward as they do not wish to recount their experiences, or have their credibility questioned. This becomes especially complicated for many women who have children or do not have status as they feel that their children may be taken away or they might be deported.

Similarly, it is also necessary to acknowledge the simplified understanding of violence that Mr. Fanaian was presenting. Asking Mrs. Montahan why she did not just leave her children or divorce Mr. Jabaerizad ignores the larger issues that are present. These questions assume that there are no repercussions that would follow if Mrs. Montahan were to leave her children or husband. It presents a very singular understanding of the situation without acknowledging the other aspects such as culture, motherhood, and economic security. It is not always common for immigrant women to simply divorce their husbands, as in many cultures, there is significant backlash that would follow. Many immigrant women often stay in their abusive relationships because of the stigma of divorce, or the shame that is associated with leaving their families. Mr. Fanaian simply ignores this cultural understanding of divorce or family dynamics by attacking the choices made by Mrs. Montahan. Additionally, by asking if she was scared of losing her children, Mr. Fanaian once again fails to recognize what he is asking Mrs. Montahan to sacrifice. Many women would choose to stay in abusive relationships if it ensured that their children would be safe, economically stable and protected. It also creates the assumption that there is always the option to escape these relationships. For many women, they do not have the financial

means to either leave themselves or leave with their children. They may not be aware or have access to resources that will accommodate their specific needs. Thus, to simply question why Mrs. Montahan did not divorce her husband and leave her children, Mr. Fanaian ignores the larger issues that need to be considered.

This case also highlights the common error in many cases where violence is seen as inherent to a specific culture. It is important to problematize this mindset as a culture should not be blamed for violence. Associating violence with specific cultures creates certain assumptions about violence and culture without any justification. These assumptions attempt to justify the actions of men through various cultural norms, however, it should be noted that these norms are not a result of culture but rather larger systemic and patriarchal issues at hand. Blaming cultures for acts of violence not only demonizes the cultures and justifies the actions of men, but it ignores the systemic issues that need to be considered. The manner in which Mr. Fanaian blames the culture for Mr. Jabaerizad's actions is very problematic as he states that the violence that Mrs. Montahan experienced was limited to Iran and cannot be understood in Canada, thus situating that violence in one specific culture. The judge should have commented on this issue in the final statement as violence cannot be understood through culture.

#### R. v. Sadiqi (2009)

In the case of R. v. Sadiqi, Mr. Sadiqi is found guilty of first degree murder for shooting his sister and her fiancée in their car (R. v. Sadiqi, 2009). He testified that he did shoot them, but only because he was provoked to do so, and therefore, should be charged with only manslaughter (R. v. Sadiqi, 2009). Mr. Sadiqi went to confront his sister and her fiancée on their relationship as both their families were from Afghanistan but from different tribes (R. v. Sadiqi, 2009). Mr.

Sadiqi was upset as the couple only consulted with his mother on their relationship and not his father (R. v. Sadiqi, 2009). He met with the couple to give them a chance to fix the situation but he ended up shooting them both (R. v. Sadiqi, 2009). In this case, there are a few key issues that can be brought forth to discuss the challenges that legal service providers may have in providing service to immigrant women such as Ms. Sadiqi, if she were still alive.

This particular case was heard at the Ontario Superior Court of Justice and it was an application by the Crown to admit hearsay statements from Ms. Sadiqi as an exception to the hearsay rule and also to admit the expert evidence of Dr. Mojab (R. v. Sadiqi, 2009). Mr. Sadiqi also put forth an application to sit at the counsel table (R. v. Sadiqi, 2009). The application by the Crown was successful as both the statements of the deceased and the expert witness were allowed. The court had determined that statements from Ms. Sadiqi were required as they were necessary, reliable and would provide evidence to warrant prosecution. Dr. Mojab's expert testimony was questioned as the court was scared that her advocacy for women's rights would bias her testimony; however, they found that her knowledge was necessary and would assist an understanding of the crime and motive. Mr. Sadiqi's application was dismissed as he was not allowed to sit at the counsel table.

The first issue that was brought forth was the discussion around culture. The case outlines issues around culture and patriarchy in order to provide context and understanding around Mr. Sadiqi's motive in shooting his sister and her fiancée (R. v. Sadiqi, 2009, paragraph 4). The case states:

The Sadiqi and Mangal families are from Afghanistan. The Sadiqi's are Tajik in their tribal ancestry while the Mangal's are Pashtun. The Sadiqi parents had separated, and not amicably.

The mother was living on the west coast while the father remained in Ottawa with their three children, Hasib, Khatera and a younger sister Aurezo. Khatera and Feroz Mangal had developed a relationship in which they contemplated marriage. According to the cultural norms of their Afghani background, Feroz or his family should have approached Khatera's father and sought his approval and permission for an engagement, and then marriage. Instead, Khatera approached her mother, introduced Feroz to her, and subsequently persuaded Feroz' family to make overtures to her mother for approval to become engaged. They did, and when Khatera's mother responded with a gift, a symbolic approval, Khatera and Feroz became engaged to be married and Khatera moved into his family home (R. v. Sadiqi, 2009, paragraph 4).

Through the court's description of the context and motive of Mr. Sadiqi's heinous crime, it becomes apparent that the court was trying to use culture as a scapegoat to justify the actions of Mr. Sadiqi. In the case, while deciding whether Dr. Mojab was a necessary witness to the case, they state, "It is conceded that the Afghani culture is relevant. Indeed, it is submitted that the cultural perspective of the parties is relevant to both the Crown's case and the defense position (R. v. Sadiqi, 2009, paragraph 42)." Through this case, it is apparent that culture was being used to possibly excuse the actions of Mr. Sadiqi. However, using culture to understand violence is problematic as it creates a link between culture and violence. By outlining the cultural norms regarding the traditional practices around marriage and proposals, the court creates an open invite to judgment around practices from Afghanistan.

It is very clear that the court also blames culture in this shooting as they stated, "The homicides have been labeled by some as an 'honour killing (R. v. Sadiqi, 2009, paragraph 5)."



The term honour killing carries with it negative connotations that are usually limited to Muslim perpetrators, therefore, creating another link to culture. The term itself is very problematic as it shifts the blame to culture while ignoring the larger systemic issues that are present in many cases of violence against women. On the topic of honour killings, Dr. Majab says:

And the reason that this debate is going on, it's the stigmatization, the sort of labeling "honour killing" as a practice of violence against women that is happening only in certain regions of the world, and especially in the Muslim majority countries. And so the argument is that it is better that if we call it as a form of a -- a particular form of violence against women than honour killing, because then we can debate it within the larger framework of violence against women, which is more universal phenomena (R. v. Sadiqi, 2009, paragraph 35).

Through the discussion of culture in this case, it seems as though the court is saying that as a result of Ms. Sadiqi not following cultural practices around marriage, Mr. Sadiqi committed the violence, so that the court appears not to acknowledge the aspects of patriarchal control that are very present.

It is very clear that there are issues of patriarchal control in this specific case. Mr. Sadiqi was visibly upset with his sister to a point where he killed her and her fiancée because he felt that his position and his father's position as men had been threatened. As a man of the house, Mr. Sadiqi felt entitled to control his sister's relationship and felt that in order for her to continue with her relationship, she had to attain his and his father's permission. Dr. Mojab provides her thoughts on patriarchal control that is present in situations of violence against women by stating:

... the control of women's bodies is the foundation for this idea of male power over female members of the family. So, when the male member of the family sees that ... he does not have the control, it means that the female member of the family does not sort of follow, does not obey the order of the male members of the family. That's when that there is this shame, that it is happening for the family, and that's when the honour of the family is being tainted, is being tarnished and then, therefore, in order to restore the honour of the family, it has to be purified, and the purification is by killing, by blood, is the way of purifying the honour that has been lost in this way (R. v. Sadiqi, 2009, paragraph 36).

The following cases above have illustrated that there are specific issues and language used by the court needs to be problematized. It is apparent that culture is still being tied to violence, which is problematic as it ignores the larger systemic structures that are in place. Additionally, patriarchal norms are being ignored in favour of discussions around finances, childcare, gender roles without addressing the root cause of violence against women that are embedded in heteronormative patriarchal structures. The judicial discourse highlighted many of the same issues that were raised through the interviews with the service providers and existing literature regarding barriers that immigrant women may experience when seeking legal services.

## **Chapter 5: Conclusion and Discussion**

### **Discussion**

#### **Financial Barriers**

Through case analysis and interviews, it is evident that there are financial issues for many immigrant women when seeking legal services. The analysis of Ontario case law highlighted that immigrant women experience financial barriers and insecurity in many stages of their experiences of violence. It is apparent that their experiences of economic vulnerability may then in turn affect their access or ability to seek legal services. Additionally, service providers also experience financial barriers due to issues with funding or as a result of the hesitancy from immigrant women seeking legal services.

Similar to what was found in the literature, the case analysis revealed that in many cases women often experience economic vulnerability as a result of their experiences with violence. As literature found, there are financial barriers for immigrant women which often prevents them from seeking any legal action against their abuser (Ingram et al., 2010; Kulwicki et al., 2010). The legal service providers shared some insight regarding financial barrier as they found that many immigrant women are hesitant in seeking legal advice. Participant one and two stated that many of the immigrant women are scared to leave their partners or seek help because they do not have the financial means to survive on their own, especially if they have children. Similarly, participant one explains that due to their financial insecurity, it often forces many of her clients into staying in these abusive households. However, both participant one and three emphasize that there are services that the women can access as her own place of employment does try to help women make connections for shelters or pay for their taxis and help them settle in their initial escape from their abusive partners.

Participant one found that similar to what Singh (2010) stated, many immigrant women are forced to rely on their husbands for financial support due to their limited language, deskilling or

lack of job experience. She said that her clinic does get cases where women who have lived in Canada for decades finally decide to take action. She finds that they often wait so long as they are not employed or are dependent on their partners for many issues. Through an intersectional feminist lens, it can be argued that the judicial discourse of the cases conformed to heteronormative understandings of family dynamics where the men provided financial security for women. In the case of *R.S. v. M.S.M.* (2016), the case discusses economic vulnerability that is argued as a direct result of the violence experienced by R.S. The case highlights the traditional gender heteronormative roles by distinguishing R.S. as the mother who is dependent on her husband, M.S.M. The case argues that due to the violence experienced by R.S., she is significantly disadvantaged in her ability to raise her child and earn money.

Similarly, the case of *Achakzad v. Zemaryalai* (2010) emphasized the financial downgrade experienced by Ms. Achakzad following the departure from her husband. The case stated that her standard of living declined once leaving her husband, implying that her husband was the breadwinner of the family. This was especially true in the *R.S. v. M.S.M* (2016) case where the role of motherhood was reinforced and questioned throughout the case. Therefore, while the service provider's statements and the case analysis reflected findings regarding financial barriers experienced by immigrant women, the cases emphasized that financial vulnerability was a direct result of the women's experiences with violence. Thus, it is important to problematize our understanding of violence and the effects following to recognize the larger impacts of violence through an intersectional feminist framework. If the cases provided more context regarding the dependency of immigrant women on their husbands for financial security through analyzing the larger systemic issues at hand, it would have created a comprehensive understanding. The

constitutional courts have the power to construct and contribute in shaping societal norms, therefore, it is the role of the courts to ensure that gender equality is reflected in the norms that are created (Orlova, 2017).

Participant one's comments regarding the lack of funding was similar to what Lee (2013) found. Lee (2013) found that many organizations especially not-for-profit, experience challenges in receiving funding. Similarly, participant one discussed that while her clinic is funded by LAO, they do not always have the support to provide services for the large intake they receive. To expand upon Lee's (2013) findings, the lawyer mentioned that because there are only 6 people who are working at the clinic, it is difficult to ensure that all cases are accounted for.

Therefore, through the analysis of the legal service providers' statements and judicial discourse, it is evident that consistent with the literature, both legal service providers and immigrant women experience financial barriers when providing or accessing legal services. It is important to recognize the larger roles of systems such as patriarchal structures, traditional gender roles, and entrenched sexism in the labour market which often prevents women from having financial security. However, as highlighted through the case analysis, it is problematic to fall into the trap of assuming that a woman's economic vulnerability is a direct result of violence, as there are larger systems that must be considered.

### Cultural Competency

Through case analysis and the interview, there is an understanding consistent with Menjivar and Salcido's (2002) findings that there is the tendency to view violence as inherent to specific cultures. The case analysis of Ontario case law regarding violence against immigrant women

truly reflected the problematic assumptions created in court regarding violence and culture. In the case of *R. v. Jabaerizad* (2002), Mr. Fanaian stated that the violence experienced by Mrs. Montahan was specifically limited to her culture and could not be understood in the Canadian context. Through creating the link between culture and violence with no substantial evidence, the court creates problematic norms that are then reflected in judgements and policies.

Similarly, arguing that the violence can only be understood in a specific context may potentially provide a justification for the actions of the perpetrator as it is justified through cultural norms rather than through acknowledgement of aspects of patriarchal dominance. The assumption that violence is linked with culture was also apparent in *R. v. Sadiqi* (2009). Mr. Sadiqi's motive and actions were justified through traditional cultural norms. The case also discussed the term honour killing in relation to this case which often carries negative connotations that are linked to Muslim perpetrators. Therefore, through creating a link between *R. v. Sadiqi* (2009) and honour killing, another case is added in which violence is seen as exclusive to a culture. Through the case analysis, it is evident that the court decided to focus on the culture as the cause of violence rather than acknowledging the embedded patriarchal structures within the norms. Thus, it is necessary to emphasize the notion that IPV is not a cultural issue but a gender issue as a result of patriarchal structures as it is present in every culture (Orloff et al., 2003).

The interview with the lawyer from the South Asian legal clinic provided insight into how legal clinics with cultural competency and understanding of cultural norms and intersectionality approach immigrant women who have experienced violence. Through looking at the cases of *R. v. Jabaerizad* (2002) and *R. v. Sadiqi* (2009), it is clear that the court personnel did not have the

appropriate cultural competency training as they were blaming culture for the heinous acts of violence. Participant one discusses the various nuances and understandings that need to be considered when working with immigrant women who have experienced violence. For example, she discusses that not all legal personnel will understand that in some cultures women cannot go back to live with their families once they are married. Similarly, Menjivar and Salcido (2002) state that many immigrant women find it difficult to leave their abusive situations and return back home for fear of judgement. Participant one argues that when these cultural norms are misinterpreted, they are turned into stereotypes which can then be used to demonize the culture. Thus, when approaching cases like *R. v. Jabaerizad* (2002) and *R. v. Sadiqi* (2009), it is necessary to operate with cultural competency to ensure that the cultures are not blamed or used to justify acts of violence. All three participants emphasized the necessity of operating with an anti-oppression, anti-racist and intersectional feminist framework when approaching cases of violence against immigrant women. Participant one also mentions the importance of recognizing that not all cultures are the same and that even with similar cultures, there are so many differences that must be considered.

### Precarious Legal Status

Consistent with the findings from Coto (1999), both participant one and two found that a major challenge they experienced is convincing clients that their abuser does not have the power to deport them. Coto (1999) found that many women are scared to come forward regarding their experiences of violence as they fear that they may be deported, and that in many cases, their abuser provides false information regarding the Canadian legal system. Similarly, participant one and two found that many clients were told by their abuser that they will be deported if they do

not listen to them or that they will be kicked out of Canada because they are not a citizen.

Participant one said that she and her clinic always try to create norms and understandings regarding deportation for their clients to get the message across that “no one has the power to get you kicked out.” By sharing and constantly reinforcing this statement, legal service providers have the power to impact the understandings regarding deportation which may encourage women with precarious legal status to come forward. This understanding would have been especially useful in the case of *Achakzad v. Zetaryalai* (2010) as Ms. Achakzad had the fear of deportation from Toronto to California.

While literature found that some legal services require proof of citizenship to access their services (Ingram et al., 2010), all participants stated that immigration status is not required for access to services. Both participant one and two mentioned that when their place of employment asks individuals about their legal status, it is more to so understand the intersections of their case in order to provide comprehensive understanding of the issues that may arise in court. Therefore, through their place of employment they encourage individuals to come forward regardless of their immigration status in order to gain information or learn about their options.

### Role of Motherhood

Through case analysis, it is apparent that the role of motherhood is a large factor that can act as a barrier for immigrant women seeking legal services. Consistent with literature, many immigrant women find it difficult to leave their abusive relationships or seek legal help for fear of losing their children (Ingram et al., 2010). Participant two discusses how in many cases women do not come forward with their experiences of violence due to the lack of child support or free time to seek legal services, therefore, forcing them to stay in their relationships. This is



especially challenging as immigrant women are often hesitant to come forward to legal service providers with their experiences of violence as they feel their children may be taken away from them (Wright & Bertrand, 2017). This was evident in the case of *R. v. Jabaerizad* (2002) as Mr. Fanaian interrogated Mrs. Montahan by asking if she really did not divorce her abusive husband for the sake of her children. By asking such a question, it ignores the larger issues that are present and creates the assumption that the only correct way to proceed in an abusive relationship is through escaping, even if it means leaving the children behind. Additionally, this question places the onus on Mrs. Montahan to either remove herself from the abusive situation while abandoning her children or continue to stay in the abusive relationship while ensuring the safety of her children.

In the case of *R.S. v. M.S.M.* (2016) the entire application was situated around her child as she was seeking child support from her abusive ex-partner. Throughout the case, R.S. is simply referred to by her role as a mother, thus simplifying her identity to motherhood. It is evident that the court decided to approach the issues regarding the violence and financial insecurity through heteronormative gender roles in order to emphasize the economic vulnerability caused by the violence and the absence of the father (*R.S. v. M.S.M.*, 2016). Similarly, the manner in which the economic vulnerability was discussed in *Achakzad v. Zetaryalai* (2010) created an understanding that the violence created the financial instability for Ms. Achakzad and her child. Therefore, it is apparent that both cases assume traditional gender roles of a male breadwinner and a female housewife whose primary role is the caregiver. However, it is necessary to recognize that there are many layers in understanding financial insecurity that is linked to larger structures of the patriarchy, deskilling, language barriers and entrenched sexism in the labour

market (Singh, 2010). Therefore, it is important to recognize the larger structures in how they relate to the role of motherhood with many immigrant women and how they can manifest as a challenge for service providers when providing legal services as many women do not come forward or report their experiences of abuse for the sake of their children.

## **Limitations**

There are a few possible limitations to my paper that must be given consideration. Firstly, as discussed in my methodology, I did not interview immigrant women who have experienced IPV. However, I hope that I was able to address this issue by providing a space where their experiences were shared through existing literature. Additionally, through including Ontario case law, I wanted to share the lived realities of immigrant women who have experienced violence and to highlight the manner in which their cases are handled. Secondly, as I interviewed legal service providers, I found that they did not discuss the specific issues with the organizational structure as they are government funded. However, I did not really have a means to address this issue but it is necessary to be question their responses rather than accepting their answers for face value, considering their position as an employee within the organization. Thirdly, as discussed within my positionality, I did not want my paper to be an open invitation to demonize immigrant communities. Throughout my paper, I made sure to include disclaimers to emphasize that violence is not inherently found in immigrant communities but rather is a reality for many women regardless of cultural background. I hope I was able to facilitate a discussion around traditional norms that are rooted in patriarchal structures and the false assumptions that link violence and culture together through writing this paper. Additionally, through drawing from

case law where culture was demonized, I hope it was evident that these assumptions are made by legal professionals without any factual support. Lastly, due to the scope of this major research paper, I was limited to the Ontario jurisdiction and IPV. It would have been insightful to explore and compare judicial discourse between different jurisdictions and other forms of violence; however, given the limits of this paper, I had to narrow the scope of the research.

## **Future Research**

Moving forward with this topic, there are several areas of research that can be explored. It would be beneficial to examine the judicial discourse and access to legal services across the different jurisdictions in Canada to understand the challenges that are experienced by legal services and immigrant women who have experienced violence. While this particular paper focuses on Ontario, it is necessary to recognize that due to the large immigrant population and diversity in services, Ontario may not be representative of the realities in accessing services across Canada. Therefore, a critical examination of the available services and the accessibility of these services would be greatly beneficial to create awareness of the existing services and the changes that need to be implemented. Similarly, as a result of the narrow scope, this paper was only able to focus on IPV. While IPV does cover many forms of violence, it also does not specifically address nuances that are present in other forms of violence. Through exploring specific aspects of violence (e.g. rape, war crimes), there can be more tailored policy recommendations and changes for legal services that are specific to the type of violence.

Additionally, this paper was solely focused on the accessibility of legal services for immigrant women who have experienced IPV; however, it should be noted that there are other

types of support services that immigrant women may need. It would be beneficial to explore the accessibility to other forms of social support services such as the accessibility and availability of mental health services for immigrant women who have experienced IPV.

Future research should also interview both immigrant women and legal service providers in order to elicit a conversation between the two parties to outline the challenges they experience with legal services. By doing so, the research will be able to provide a space where lived realities of immigrant women can be shared while still accounting for the experience of front line workers. Through engaging in a conversation with both parties, future research will be able to create a more concrete and comprehensive understanding regarding the violence experienced by immigrant women. Similarly, in order to provide a more comprehensive understanding regarding the effects of violence on immigrant women, future research should aim to include the voices and experience of family members who have experienced violence to emphasize the notion that violence is not restricted to one party. Gaining insight into how violence affects family member could illustrate the severity of the effects of violence. This insight can then be used to call upon the obligations of Canada to recognize that violence is ongoing and systemic.

## **Recommendations and Conclusion**

Canada has the legal obligation through its ratification of international legal instruments to address and prevent violence against immigrant women. It is Canada's responsibility to ensure that violence is understood as a violation of gender equality. Similarly, it is important to recognize the universality of violence and how it is present through the reinforcement and embodiment of patriarchal structures. Therefore, it is necessary to create movements where

human rights can transcend national boundaries. MacDonald (2002) argues that through the various stories of everyday law, individuals are able to create norms and discourse that can be used not only in policy but through our general walks of life. He states that it is through the conversations, movements and relationships with human beings that we are able to influence norms, such as the norms of violence (MacDonald, 2002). Through engaging with legal service providers and conducting case analysis, it is apparent that norms regarding violence are present in many aspects of society. Thus, it is imperative to promote and share the norms that have the possibility of bringing forth positive change to eliminate and address violence against women.

Similarly, it is necessary to problematize the norms that create negative assumptions regarding violence against women. Only through encounters, movements and open discussions regarding violence against women, can violence be conceptualized as a global violation of gender equality. Thus, through discourse of universality, all individuals can play a role in order to influence larger structures to create movements that focus on addressing and preventing violence against women across the world. Additionally, through understanding human rights as transcending national boundaries, it is possible to create spaces where feminist movements can find allies across jurisdictions to share norms to influence areas where IPV is normalized. Using international law norms within domestic judicial discourse can help shape the legal norms within that jurisdiction as well as across jurisdictions, so it may prove to be useful to look at cases across different jurisdictions regarding violence against immigrant women.

Moving forward with understanding issues of violence against immigrant women, it is necessary to improve certain aspects regarding access to legal services. Firstly, there needs to be consistent cultural competency training for all legal personnel in Canada to understand that

violence is not inherent to culture. Cultural competency training can improve legal service providers' understanding regarding various cultural norms and nuances. Additionally, the training can provide comfort for immigrant women who may have feared that their culture will be questioned or demonized. Secondly, it is necessary for all legal service providers and policy makers to operate with an intersectional feminist lens to recognize the larger patriarchal structures and systemic issues surrounding immigrant women and violence that are in place. Through considering issues through an intersectional feminist framework, legal personnel are forced to acknowledge the complexity of each case to understand how the various intersections of life for immigrant women can make them more vulnerable to IPV. For policy makers, this intersectional feminist framework will force them to understand how their policies may impact certain populations differently. Lastly, there needs to be a consideration of the individuality of each case regarding violence against immigrant women. It is imperative to recognize the complexity of each case of violence against women to acknowledge their various intersections of life and how the larger systems of race, gender, class and precarious legal status all worked to create the conditions of violence they have experienced. Therefore, through approaching cases of violence against immigrant women with cultural competency, an intersectional feminist lens and a consideration of the individuality of each case, legal services will be able to ensure that the experiences of immigrant women are reflected and adequately addressed.

It is also important to recognize that there are larger structures that firstly must be addressed in order to prevent violence against immigrant women. There needs to be an understanding regarding the structures of patriarchy that are apparent in many traditional norms that continually work to create situations of oppression for immigrant women. Therefore, it is important to follow

MacDonald's understanding regarding the power of everyday norms to promote and uphold norms that question and challenge the underlying and embedded patriarchal structures in traditional norms. Similarly, it is imperative to challenge the adversarial nature of the court system which continues to revictimize many women who have experienced violence. Thus, in order to make significant changes in judicial discourse and the manner in which cases are handled, there needs to be a shift in how court systems function. In addition, through having a more understanding legal system that does not revictimize individuals who have experienced violence, women may be encouraged to come forward with their experiences of violence. Orlova (2017) mentions that while it is necessary to provide constitutional recognition to immigrant women whose rights have been violated, it is imperative to go further to make necessary social, political and economic changes to ensure that immigrant women are able to enjoy their constitutional rights and freedoms.

Lastly, it is necessary to implement a monitoring system that works to ensure that Canada is fulfilling its domestic and international legal commitments to addressing and preventing violence against immigrant women. While it is good first step for Canada to ratify many legal instruments to address the issue of violence against women, without the implementation of a monitoring system, there is no way to account for Canada's action in upholding its legal responsibilities. Therefore, through implementing a framework that holds Canada accountable to its roles and responsibilities as a signatory party to international instruments such as the CEDAW, it would provide an understanding of the goals that need to be achieved and the necessary changes that need to be made.

## **Appendix A: Informed Consent Form**



### **Ryerson University Consent Agreement**

You are being invited to participate in a research study. Please read this consent form so that you understand what your participation will involve. Before you consent to participate, please ask any questions to be sure you understand what your participation will involve. You may take as much time as you wish to decide whether or not to participate in this study.

#### **TITLE: Breaking Down Barriers: Challenges in Providing Legal Services for Immigrant Women who have Experienced Intimate Partner Violence**

**INVESTIGATORS:** This research study is being conducted by Mounica Gudivada, as a graduate student in the Immigration and Settlement Studies, Ryerson University as a partial requirement of the degree, under the supervision of Dr. Alexandra Orlova. If you have any questions or concerns about the research, please feel free to contact:

Mounica Gudivada  
mounica.gudivada@ryerson.ca

Dr. Alexandra Orlova  
416-979-5000, ext. 6413  
arlova@ryerson.ca

#### **PURPOSE OF THE STUDY:**

The purpose of this study is to identify through interviews the challenges and barriers experienced by legal service providers when providing services for immigrant women who have experienced intimate partner violence.

The outcomes of this research include:

- Contribute to the literature regarding legal services for immigrant women
- Help inform future research, policy and decision-making concerning legal services for immigrant women
- To produce research that can improve current legal services in order to effectively address the challenges experienced by immigrant women and legal services

This study is seeking 3-5 legal service providers to participate in this research project that are currently employed and have been working with immigrant women who have experienced intimate partner violence for a minimum of 1 year. The results of this study will contribute to the



partial completion of the investigator, Mounica Gudivada's graduate degree under the supervision of Dr. Alexandra Orlova.

### **WHAT PARTICIPATION MEANS:**

If you volunteer to participate in this study, you will be asked to participate in a one-on-one interview.

#### **Interview Format:**

- Interview will last 30-45 minutes
- The interview will be conducted at a mutually convenient time near your work place if it offers privacy, or at another location (i.e., local library or at Ryerson University) that provides aural and visual privacy
- You will be provided with all necessary information prior to the interview, including the consent form and possible interview questions
- Prior to signing the consent form, I will discuss your rights, the nature of the interview and project, and the potential risks and benefits of participation, as well as the means of reducing those risks
- I will not be asking about specific cases and ask that you do not discuss specific cases in this interview
- You are free to stop or withdraw from the interview at any time and to choose not to answer questions

#### **Type of Information Sought:**

- Subject to your consent, I will collect some personal information, including your name, place of employment, e-mail address and phone number
- Your e-mail address will be collected so that a written transcript of your interview can be returned for you to review
- You will be given this written transcript within 2 weeks after the interview, and you will have 1 week to provide your feedback, request changes or withdraw your information or data from the study
- This study is primarily interested in the challenges you have experienced when providing legal services for immigrant women who have experienced intimate partner violence

#### **Retention and Dissemination of Information:**

- The interview will be audio-recorded in order to transcribe the interview at a later time to make a written transcription and use the interview for my data
- I will make written transcriptions of the interviews, after which the audio recordings will be destroyed
- You will be provided with access to transcriptions, which you may review and revise
- Transcriptions will be kept for 2 years in case this study is published or presented at a later date (i.e. academic journals or academic conferences)
- All research findings and publications will be made available to participants upon their request

- If you would like a copy of the findings or the full research paper, please contact me, at mounica.gudivada@ryerson.ca
- You are free to withdraw from this study at any point

### **POTENTIAL BENEFITS:**

Participants may not benefit directly from the study. However, I hope that the information gained from this study may contribute to literature regarding legal services for immigrant women, thus benefitting legal service providers who work with immigrant women who have experienced intimate partner violence. I cannot guarantee, however, that you will receive any benefits from participating in this study.

### **POTENTIAL RISKS TO YOU AS A PARTICIPANT:**

The risks associated with participation are very low. You may experience discomfort when discussing immigrant women clients that have sought legal services from you as well as your own personal experiences working with this population. To reduce this risk, you are not required to answer questions you are uncomfortable with, and the interview can be stopped at any time either temporarily or permanently. To reduce this risk further, contact information for counselling services can be provided upon your request. You may fear that your participation may affect your employment. In order to manage this potential fear, please note that your participation is completely voluntary, confidential and that no identifying information will be used. I will be using pseudonyms and will not disclose your place of employment.

### **CONFIDENTIALITY:**

I will be collecting some personal information, including your name, place of employment, e-mail address, and phone number. This is done if I need to contact you after the interviews, as well as send you the transcribed audio-recording. I will use pseudonyms so that your name is not attached to the data, and all information that identifies you in the written notes will be removed. Data will be stored separately, in different password-protected files.

There will be no video recordings, and the audio recordings of the interviews will be destroyed once transcribed. Copies of the transcripts will be kept for 2 years in case the study is published (i.e. academic law journals) or used for other academic purposes (i.e. conferences). All data will be shredded after 2 years. Both consent forms and transcripts will be stored separately in a locked cabinet. The study results or the full research paper will be made available to you at your request. Transcription of the tapes will be done only by the Principal Investigator, and my supervisor, Dr. Alexandra Orlova will also have access to the recordings with your permission.

### **INCENTIVES FOR PARTICIPATION:**

There are no incentives for participation.

### **VOLUNTARY PARTICIPATION AND WITHDRAWAL:**

Participation in this study is completely voluntary. You can choose whether to be in this study or not. You may skip any question that makes you uncomfortable. You may stop participating at any time. If you choose to stop participating, you may choose to not have your data included in

this study. Your choice of whether or not to participate will not influence your relations with Ryerson University.

**QUESTIONS ABOUT THE STUDY:**

If you have any questions about the research now, please ask. If you have questions later about the research, you may contact:

Mounica Gudivada  
mounica.gudivada@ryerson.ca

Dr. Alexandra Orlova  
416-979-5000, ext. 6413  
arlova@ryerson.ca

This study has been reviewed by the Ryerson University Research Ethics Board. If you have questions regarding your rights as a participant in this study please contact:

Research Ethics Board  
c/o Office of the Vice President, Research and Innovation  
Ryerson University  
350 Victoria Street  
Toronto, ON M5B 2K3  
416-979-5042  
rebchair@ryerson.ca

**Breaking Down Barriers: Challenges in Providing Legal Services for Immigrant Women who have Experienced Intimate Partner Violence**

**CONFIRMATION OF AGREEMENT:**

Your signature below indicates that you have read the information in this agreement and have had a chance to ask any questions you have about the study. Your signature also indicates that you agree to participate in the study and have been told that you can change your mind and withdraw your consent to participate at any time. You have been given a copy of this agreement. You have been told that by signing this consent agreement you are not giving up any of your legal rights.

\_\_\_\_\_  
Name of Participant (please print)

\_\_\_\_\_  
Signature of Participant

\_\_\_\_\_  
Date

I agree to be audio-recorded for the purposes of this study. I understand how these recordings will be stored and destroyed.

---

Signature of Participant

---

Date

## **Appendix B: Interview Guide**



### **Interview Guide**

1. What legal services do you and your place of employment offer?
2. What is required from clients when they seek your legal services? Probe: cost, immigration status, employment, citizenship
3. Who are the typical clients who seek your legal services? Probe: demographics
4. What is the usual procedure for handling a case surrounding intimate partner violence? Probe: questions asked, options discussed, language used
5. How often do immigrant women seek your legal services? Probe: types of cases
6. Does the immigration status of a client matter when providing legal services?
7. What are the options offered for immigrant women who cannot afford your legal services? Probe: free services (pro-bono)
8. What are the languages in which your legal services are offered in?
9. What are the culturally sensitive training, programs or services offered by your place of employment?
10. Please describe any challenges you experience when providing legal services for immigrant women. Probe: language barriers, financial barriers, children, deportation, cultural understanding

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