



Department of Justice Ministère de la Justice
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TECHNICAL REPORT

**Barriers to Justice:
Ethnocultural Minority Women and Domestic Violence - A Preliminary
Discussion Paper**

**Nahid Roboubi
Sharon Bowles**

**Federal-Provincial-Territorial
Working Group on Multicultural and
Race-Relations in the Justice System**

TR1995-3e

UNEDITED

**Research and Statistics Division/
Division de la recherche et
de la statistique**

**Policy Sector/
Secteur des politiques**

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*The views expressed herein are solely those of the
author and do not necessarily represent the views of
the Department of Justice Canada.*

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1.0 INTRODUCTION

The following presents an overview of findings from various reports relevant to issues of access to justice for ethnocultural minority women who are victims of domestic violence.

1.1 General Approach

The approach taken in many reports is that the needs of ethnocultural minority women who are abused within their homes cannot be separated from the needs of ethnocultural minority women in general. Also, the way domestic violence is understood by these women and those who provide services to them is directly linked to an awareness of violence against women in a broader sense. It reflects the belief that the roots of violence against women are deeply imbedded in societies in which women are valued and treated as inferior to men.

Another important theme in the literature is that the stress of the immigration and acculturation process for new immigrants should not be considered as the cause of violence *per se*. But for families who are experiencing violence while going through the stresses associated with the immigration and settlement process, assaults to wives and children may increase in frequency. However, the experience of violence is a global one which transcends racial, ethnic and national boundaries.

1.2 A Note About Terminology

The literature surveyed revealed a lack of consensus on the appropriate terminology to describe racial and ethnic minority women. In this review of barriers to access to justice, we use the term "ethnocultural minority" women.

At times the discussion focuses on experiences that are specific to immigrant women only, while other barriers apply to ethnocultural minority women in general.

1.3 Source Material

The literature reviewed for this discussion comes from a variety of sources including research, conference proceedings, academic literature, and individual submissions made to various groups, panels and committees. Time constraints did not permit the referencing of sources within the document.

2.0 BARRIERS

The identification of barriers and the organization of the subsequent information is an arbitrary exercise which reflects the needs of the authors to conceptualize and manage the voluminous information; it does not, however, reflect the way in which ethnocultural minority women are likely to experience these barriers. It is the interrelatedness of these barriers and the combined effects of racism and sexism which shape the experiences of ethnocultural minority women.

2.1 Language/Informational Barriers

- Lack of proficiency in English or French appears to be a major obstacle preventing immigrant women from accessing information about the justice system and their rights within it. Studies show that immigrant women from almost every age group are less likely to speak English or French than their male counterparts. The inability to communicate effectively in either official language hampers integration into the broader community, and thus may serve to further isolate immigrant women. Furthermore, immigrants to Canada are sometimes illiterate in their first language which increases the difficulty in learning English or French and problems in accessing information.
- The inability to speak English or French presents a particular difficulty for immigrant women who attempt to interact with representatives of the justice system. For example, when police respond to an incident of domestic violence the assaultive husband may give only his version of the facts since the wife may speak only her native language. This means that the police will be unable to gather information on the abused woman's experience of the assault.
- Those who have inadequate knowledge of the language turn to family or friends for help who may advise them to stay in the relationship and keep the family together. Family members may mislead the woman or may be genuinely misinformed about options or resources available to her.
- It was pointed out in several of the documents reviewed here that some concepts are culturally specific; terms or phrases may connote different things to different communities. Even women with a high degree of proficiency in English or French may have difficulty with certain terms; for example, in identifying or understanding the term "abuse". This may cause confusion and frustration for both women and justice system officials in dealing with the issue of domestic

violence.

- Immigrant women have less opportunity to obtain formal language instruction than do their male counterparts.
- Immigrant women, like most Canadian women, carry a disproportionate responsibility for child care and household duties. Without affordable child care, they often lack the time or resources to pursue language training.
- Although some attempts have been made to improve the situation, the research points to a lack of culturally appropriate public legal education materials for immigrant women in languages other than English and French.
- The literature stressed that women are not given sufficient information by immigration authorities about their rights in Canada. They do not receive adequate orientation before coming to Canada. Lack of knowledge about the system compounds fears and apprehensions of immigrant women. The greatest fear for sponsored immigrant and refugee women is the fear of deportation. This fear may be used by abusive partners to keep the women silent.
- Some ethnocultural minority women (i.e., live-in domestic workers) are particularly vulnerable to sexual abuse and harassment. Employers' threats of deportation, economic dependency, lack of awareness about their rights, etc., silence these women.
- Domestic workers lack legal information on their rights and obligations arising from their status. Intercede, a Toronto-based organization for domestic workers' rights, reports that approximately 70 percent of its counselling services to domestic workers involve immigration matters.
- Domestic workers' fears of jeopardizing their immigration status is the dominant factor constraining them from speaking out about abuse or exploitation. While there is an information kit for employers regarding the hiring of domestic workers, there is no comparable kit for domestic workers to inform them about their rights.

2.2 Cultural Barriers

- In many cultures wife assault is seen as a private matter that should be dealt with

in the privacy of the immediate or extended family. Women fear that they will be blamed and perhaps ostracized by their families or communities by becoming involved with the formal legal system.

- There may be cultural factors which inhibit the discussion of intimate feelings or sensitive personal circumstances. In the Chinese culture, for example, people are not encouraged to express their feelings. Chinese women rarely talk about their marital situations. Support services such as counselling may not be easily accepted by them and may not be useful. This also has implications for treatment programs for male batterers; men may feel reluctant to explore and express their feelings of anger and frustration.
- Intervention by the formal legal system may be contrary to informal dispute resolution mechanisms normally relied upon by the family. Some ethnocultural minority communities have an extended family structure in which men have undisputed authority in the household. Women in these families are expected to seek help from the head of the family (older male-member) regarding their problems.
- Some women are afraid to involve the police in domestic violence situations due to their past experiences of violence by agents of the state (i.e., experiencing or witnessing rape, torture, murder etc., by the police and/or military in the country of origin).
- The experience of sexual assault can have a particularly severe impact on ethnocultural minority or immigrant women, especially if their culture places a high value on virginity, chastity and fidelity. They may be stigmatized by their families or communities, in spite of the fact that they have been the victims of unwanted sexual contact.
- In some cultures the role of social agencies is limited or virtually non-existent. Therefore, these kinds of interventions are unfamiliar to the members of these communities.
- Religion and religious authorities have great influence in some ethnocultural minority communities. Religious teachings, with their emphasis on family unity and prohibitions against the dissolution of marriage, make women reluctant to leave abusive situations.
- There is a stigma attached to reliance on social assistance. Some immigrant women who are economically dependent on their husbands may feel that they

have few viable alternatives other than staying in an abusive relationship.

- There are differences in cultural values concerning the definition of family and community that have potential significance for the way people from different cultures approach family law issues such as separation, divorce, custody, etc.

2.3 Institutional Barriers

2.3.1 Substantive Legal Disadvantage

Refugees:

- Many argue that existing guidelines for the determination of refugee status discriminate against women in failing to fully recognize, amongst other things, persecution that women face because of their gender.
- Refugee women must meet immigration admissibility criteria, which may prove difficult as the criteria are based on skills generally held by men.

Domestic Workers:

- The power differential (perpetuated by legislated inequality) between domestic workers and their employers creates the conditions under which physical, sexual and financial abuse may flourish.
- Educational requirements under the Live-In Caregiver Program are seen to be racist and sexist. In most of the countries of origin from which the caregivers are drawn, women have limited access to educational opportunities because they are poor or because they are women. This often places an impossible burden on the woman, effectively barring her entry into the country.
- There are discrepancies between provincial and federal legislation in cases such as the employer/employee agreements as they relate to domestic workers. It may generate ambiguity regarding the rules meant to govern wages and working conditions (i.e., the former may not entitle live-in domestic workers to overtime wages, while the latter may).
- The enforceability of an employer/employee agreement has never been subject to court challenge regarding domestic workers.

Immigrants:

- Women who are landed immigrants are said to be protected from deportation if their sponsorship relationship breaks down. However, there have been documented instances where women in this situation were deported despite having landed immigrant status (Godin, 1994).

2.3.2 Administrative Legal Disadvantage

- Violence experienced by some ethnocultural minority women is complicated by the immigration process. Immigrant women who are sponsored and wish to break the sponsorship, or for refugee claimants, policies and procedures lead to secondary victimizations, i.e., the assessment guidelines used by immigration officers can be almost punitive, or they do not allow enough time for women to become self sufficient.
- Justice system personnel are often insensitive or lack knowledge about cultural differences. This can make them ill-equipped to deal with the special needs of immigrant women, particularly those whose English language skills are poor.

2.3.3 Labour Market and Economic Disadvantage

- Ethnocultural minority women are over-represented in low skill and low wage jobs. With the lack of proficiency in English or French this group will further be prevented from accessing employment training skills and upgrading programs. When faced with legal problems, this group often lack economic resources to seek specialized help.
- Some immigrants under sponsorship status are restricted from accessing income assistance and other social welfare programs such as legal aid unless they can prove that the sponsorship has broken down.
- Immigrant women may have little or no economic independence from their husbands. In case of separation they may face welfare as their only alternative. If children are involved, the question of custody, day care and child support poses a real concern for these women. Therefore, they will not report the abusive husband in fear of losing their financial support.

- Immigrant or ethnocultural minority women who leave abusive situations may face a greater risk of poverty, due to underemployment and language difficulties.
- Immigrant women (particularly domestic workers) often need to send part of their earnings to their countries of origin in order to support family members. This puts a strain on already limited resources.

2.3.4 Access to Services and Benefits

- There is a lack of representation of ethnocultural minority women in women's shelters and other services (legal, health, social services). Battered women from immigrant or ethnocultural minority communities may feel reluctant to ask for assistance if they feel the service providers have values, beliefs and experiences which are quite different from their own.
- Many services designed to assist women who are victims of domestic violence are not sensitive to the cultural, social and political backgrounds of immigrant and ethnocultural minority women. This concern has been raised in the context of counselling services, women's shelters, and legal aid services.
- Some ethnocultural minority communities may feel that mainstream groups or agencies that do "outreach" to immigrant or ethnocultural minority women are simply exploiting the knowledge and expertise of that community.
- Adequate funding is not given to ethnocultural minority women's groups to provide service to their own communities. Instead, funding is often available to educate or sensitize mainstream service providers (Shin and Kerisit, 1992).
- Funding decisions may perpetuate power imbalances which exist within ethnocultural minority communities. The perception exists on the part of many community groups that funding tends to be allocated to "professional", middle-class, conservative, male-dominated organizations (Shin and Kerisit, 1992).
- Distant/inaccessible location of services. Services are usually provided in big cities. Distant or inaccessible location of services for battered ethnocultural minority women, coupled with apprehensiveness about using services outside one's ethnic community, may put these services out of the reach of these women.
- For refugee women, battered women's shelters may not be a viable option, because the displacement and potential poverty they are likely to encounter may

remind them of the homelessness and suffering they have likely endured as refugees. The crowded conditions or confined spaces of shelters may serve as reminders of prisons or refugee camps.

2.4 Racism as a Barrier

- Ethnocultural visible minority women face racism and sexism in their dealings with individuals and institutions. This compounds other problems they experience.
- For ethnocultural minority or immigrant women who are victims of wife assault, fear of the police and police treatment of abusive spouses is a frequently mentioned problem. For instance, in some communities, women are afraid to report abuse due to perceived and experienced discrimination by the police, and the fear that their husbands or boyfriends will be injured or killed by the police. As the former head of the National Action Committee on the Status of Women noted, "Systemic racism in Canadian society and in the institutions of justice place racial minority women between a rock and a hard place--we have forced them to choose between their loyalty to community and their personal safety".
- Some immigrant or ethnocultural minority women are particularly vulnerable to sexual assault. There is little documentation on this issue due to cultural values and taboos that prohibit the discussion of sexual matters.

3.0 DOMESTIC VIOLENCE: RESPONDING TO BARRIERS

The following section presents an overview of key recommendations contained in the literature relating to access to justice for ethnocultural minority women who are victims of domestic violence.

3.1 A General Approach

In terms of the general approach to identifying and overcoming barriers to justice, our literature review suggested the following:

- Solutions need to be rooted in ethnocultural minority women's experiences of violence as defined in their own terms. Mainstream approaches to wife assault may marginalize the special needs of these women experiencing domestic violence.
- Solutions should be sensitive to political, social and religious realities of different communities, and must recognize the cultural, linguistic and social differences between communities.
- Solutions need to involve the entire community, although they can be focused on a specific group within that community (i.e., abused women). For example, public education on wife assault could be provided in English as a Second Language classes.

3.2 Specific Responses

With regard to specific barriers, the literature offered the following recommendations:

3.2.1 Language/Informational Barriers

- Cultural interpretation services should be expanded and made more accessible to immigrant women. These services should not, however, be expanded at the expense of formal language training services.

- Language training needs of ethnocultural minority women who lack proficiency in both official languages must be addressed immediately. Research needs to be undertaken to explore the extent to which barriers to language training for ethnocultural minority women are legislatively created (systemic barrier), and the extent to which these barriers stem from lack of knowledge about the right to access to language training (informational).
- Provide plain language and culturally appropriate public legal information to ethnocultural minority communities on violence against women. Consider providing orientation on related information for immigrant families before they come to Canada.
- Additional research into appropriate education delivery models, and product formats to disseminate legal information to various communities. For example, some communities may prefer illustrated materials with lots of graphics, whereas for others, videos or community T.V. shows may be the best ways to communicate information about the Canadian justice system.

3.2.2 Cultural Barriers

- There is a need for more comparative model research (like Comparative Justice System Project, Law Court Society of B.C.) to clarify the basic differences between the Canadian justice system and the justice systems of countries of origin for many immigrants. This would assist us in clarifying some of the major differences between justice systems, and in better communicating this information.
- There is a need for research on the impacts of cultural differences on family law issues and potential barriers they may present to minority community members (especially women and children).

3.2.3 Institutional Barriers

3.2.3.1 Substantive Legal Disadvantage

- Research for changes in the immigration law and policies have been identified as one of the most urgent areas.
- Proposals for change include a law reform to allow women victims of assault to stay in Canada, changing the policies to allow access to language training with living allowance and granting a three-year Minister's permit which will give women a chance to show their potential to be self-sufficient.

3.2.3.2 Administrative Legal Disadvantage

- Cross-cultural training of justice professionals (i.e., police, judges, lawyers) is an essential component of change. However, cross-cultural training efforts must be more substantial. Preliminary consultations with multicultural community members as well as evaluation of existing training programs in terms of content, trainers and participants can assist us in developing more effective training programs.
- It is suggested that effective cross-cultural training should become a prerequisite to assuming a position in the justice system.
- Cross-cultural training programs should consider educating Justice professionals about the realities of domestic violence for ethnocultural minority women.

3.2.3.3 Labour Market and Economic Disadvantage

- The larger issues of skills training and job training for all immigrant women must be addressed if we wish to assist these women in feeling more empowered rather than being forced to be dependent on the social service system.
- Job training programs must be tailored in ways to meet ethnocultural minority women's needs and accommodate their differences with respect to caregiving responsibilities, life skills, language abilities, training hours and locations.

3.2.3.4 Access to Services

- Social and legal services participation: shelters, medical services, legal aid, judiciary, etc., should become more reflective of the diversity of Canadian society. This will encourage many battered women from ethnocultural minority communities to seek help (they will have less difficulty in interacting with the personnel).
- Laws, policies and programs need to be more informed of special needs of these women, and provide more culturally sensitive services to them. (However, it is worth mentioning that in few reports it was stated that in some small ethnocultural communities, women victims of violence may be reluctant to go to service providers from their communities for fear of service providers disclosing family problems in their communities. This might not be the case for large ethnocultural communities.)
- Assistance programs must be established to help victims of violence from designated groups, including ethnocultural minority groups, through the court process.
- There should be better protection and services in the courtrooms for ethnocultural women, such as appointing court interpreters who are familiar with the cultural context, and allowing for separate interpreters for victims and offenders in the court.
- Justice professionals in dealing with clients should explain in plain English, the terms which they use in their particular practice. Legal terms used in the judicial process are like a foreign language to most people. This is often much more difficult for immigrant populations who may lack proficiency in English or French.
- Connect with communities to increase access to justice related services. For example, immigrant serving agencies are often the only link to immigrants and refugee communities. These organizations provide many opportunities for increased public legal education and access to services.

3.2.4 Racism as a Barrier

- Given the negative state of police race-relations in some communities, many ethnocultural minority women are being forced into risky situations in which they

feel they have to defend their abusive partner against the police or they are pressured by their communities from seeking help from the police. Alternative strategies should be explored.

- Preventive strategies - Racism: Racism can not be fixed by prescribing short-term solutions such as affirmative action programs or short-term educational efforts. These may become ends in themselves while they only serve to marginalize the real problem. This points to the importance of early public education on race relations starting from elementary school. As well, race relations strategies must be on-going and far reaching involving not only schools, law faculties, university, government and non-government institutions but also the outside community.

3.2.5 Funding

- Increase legal aid funding for civil (family law) matters. Economic disadvantaged women, which may include many from ethnocultural minority communities, are going to be victimized twice if they are not able to access legal aid. Also, legal aid fees should be increased to levels closer to the rates generally used in private sectors, to give clients better quality service and to provide a wide pool of interested lawyers.
- Government policies on funding the programs and ethnocultural minority groups working to combat violence against women should be affirmative-action oriented. They should be more proactive in reaching out to grassroots organizations and community-based groups working in this area. These organizations and groups should have equal access to core and ongoing funding and funding agencies should recognize unique programs and services that they deliver to communities.

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