

Differing Dynamics of Domestic Violence in Asian Families: Implications for Child Custody Mediation

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The presence of domestic violence tells us about the presence of inequality in the relationship; the extent of the violence tells us about the extent of the inequality. All cultures have gender inequality, the degree of inequality differs, the space to push against the boundaries differs, and the rigidity with which these structures are maintained differs. Inequality isn't necessarily abusive, only when it's used to cause harm and suffering, to assert power and control in repeatedly violent ways.

High Prevalence Rate

Forty one to sixty percent of Asian women report experiencing physical and/or sexual violence by an intimate partner during their lifetime.¹ This is higher than the prevalence rate for other groups: Whites (21.3%), African-Americans (26.3%), Hispanics of any race (21.2%), mixed race (27.0%), and American Indians and Alaskan Natives (30.7%).² It is also higher than the 12.8% rate reported for Asians and Pacific Islanders in the same national survey, which may be attributed to under-reporting arising from language and socio-cultural barriers.

Lifetime Spiral of Gender Violence

From the aborting of female fetuses to intimate homicide, girls and women may encounter numerous oppressions during infancy, childhood, adolescence, adulthood, and as elders. Some of these are confined to one stage in the lifecycle, some continue into subsequent stages. Domestic violence is one amongst many forms of violence against women. It is about more than physical, sexual, economic and emotional battering; it is also about living in a climate of fear. The lives of abused Asian and Pacific Islander women are shadowed by the cultural burdens of shame and devaluation.

By enumerating types of violence over the lifecourse, the Lifetime Spiral implicitly locates a range of abusers in the lives of girls and women, revealing patterns of victimization and perpetration. The Lifetime Spiral is designed to be used to identify histories of violence in their own lives or in the lives of family and friends. By raising awareness about the historical nature of violence against women and girls, we can begin to diminish victim-blaming.

Gender violence can be experienced in the context of additional oppressions based on race, ethnicity, age, sexual orientation, gender identity, type of labor performed, level of education, class position, disability, and/or immigration or refugee status.

¹ Asian Pacific Institute on Gender-Based Violence. *Fact Sheet on Domestic Violence in Asian Communities*. This figure is derived from community-based studies in different Asian ethnic groups in the U.S. The low end of the range is from a study by A. Raj and J. Silverman, Intimate partner violence against South-Asian women in Greater Boston *J Am Med Women's Assoc.* 2002; 57(2): 111-114. The high end of the range is from a study by M. Yoshihama, Domestic violence against women of Japanese descent in Los Angeles: Two methods of estimating prevalence. *Violence Against Women.* 1999; 5(8): 869-897. Oakland: Author, 2005 (Revised).

² Tjaden P., and Thoennes N. *Extent, Nature and Consequences of Intimate Partner Violence: Research Report*. Washington, DC: National Institute of Justice and the Centers for Disease Control and Prevention; 2000.

Lifetime Spiral of Gender Violence



Differing Dynamics

Domestic violence in Asian communities has some different patterns, forms and dynamics of abuse. While trying to show a complex picture of what is happening in Asian families, we want to avoid stereotyping them. There are similarities between all battered women's experiences; these are not enumerated here. Some of the dynamics Asian women describe may be particular to only certain ethnic groups some may be common to many of them. However, there are two distinguishing dynamics:

Multiple batterers, single victim

- Perpetrators can include marital family members: husbands, mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, ex-wives, new wives; and/or members of a woman's natal family – her parents, aunts, uncles, adult siblings.
- Multiple batterers may act separately, each using different types of abuse.
- Multiple batterers can act together, playing different roles in one incident.
- In-laws may encourage or support domestic violence, but not perpetrate it themselves.
- Multiple abusers may use coercive control tactics; exercise micro-controls on her movements - monitoring, tracking, and reporting on them; exert power and control from afar through texting, webcams, other technologies.

Push & pull factors

Terms used to explain immigration -negative circumstances that 'push' people to leave and positive attractions that 'pull' them to migrate- are applied to battered women's experiences.

- Pull factors are behaviors and statements that 'pull' or lure her back into the relationship by offering apologies, reassurances and promises to change.
- Push factors are meant to 'push' her out of the relationship, rather than draw her back in.
- API women report feeling pushed out of the relationship or marital home ("leave the house, give me a divorce, I can always find another wife") more frequently than they are pulled or enticed back into it ("come back to me, I won't do it again").
- Push and pull factors affect how decisions, especially about leaving, are made.

Physical abuse can include:

- Battering by multiple abusers in the extended family home can include mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, ex-wives, new wives, adult siblings, and/or members of a woman's natal family;
- Intensive surveillance, cyber-stalking, monitoring activities and visitors, exercising abusive controls from afar utilizing multiple technologies;
- Withholding food, healthcare, medication, adequate clothing, and hygiene products like soap, shampoo, etc;
- Immediate abandonment in the home involves leaving a new wife in her country of origin without any means of contact because the husband leaves a false address, or in the U.S., filing for divorce within a few months of marriage;
- Hyper-exploitation of women's household labor to serve all members of the extended family; and
- Homicides that encompass a broader range of deaths than murder by an intimate, including honor killings, contract killings, dowry or bride price related deaths, killing of family members in the home country, or being driven by one's husband and in-laws into committing suicide.

Emotional abuse can include:

- 'Push' factors out of the relationship from a husband and his family more frequently than 'pull' factors back into the relationship;
- Tightly prescribed and more rigid gender roles for women and men;
- Severe isolation by inhibiting contact with family in the home country and other support systems;
- Using religion to justify domestic violence and to threaten loss of children, social status, financial support and community;
- Pressure from the natal family to stay in the marriage and tolerate the abuse; and
- Silencing battered women and blaming them for bringing dishonor to the family because of the strong nexus of shame and public disclosure.

Sexual abuse can include:

- Excessive restrictions designed to control women's sexuality, grave threats about being sexually active;
- Blaming victims for rape, incest or coerced sex, being forced to marry a rapist;
- Denying the right to choose or express a different sexual orientation;
- Being forced to watch and imitate pornography;
- Coercion into unprotected sex which could result in sexually transmitted diseases, including HIV/AIDS;
- Extreme sexual neglect and coldness;
- Sexual harassment not only from co-workers, but from family members, community leaders, clergymen, etc.;
- Forced marriages (not to be confused with arranged marriages) to unknown and generally much older men – marital rape is exacerbated in such situations;
- Ignorance about sex, sexual health and anatomy; and
- Sexual violence in home countries and attendant unresolved trauma can be used by batterers to demean, reject, silence, blame or further violate their intimate partners. These experiences particularly affect refugee and immigrant women who may have been raped in war zones, refugee camps, on unsafe immigration or escape routes or because they were cultural or religious minorities in their home countries, e.g., Muslim women raped in (predominantly Hindu) Gujarat, India or Shan women raped by Burmese militias.

Abuse of women who are mothers can include:

- Forced abortions, sex-selected abortions when the fetus is female, or multiple, repeated pregnancies to bear sons in the family;
- False reports and accusations by batterers intended to cause mothers to lose custody of their children. This is achieved by manipulating social service, child protection, immigration, child custody, and criminal and civil legal systems to the advantage of the batterer and his family; and
- Using culture and cultural norms to separate mothers from their children by sending children to paternal grandparents in the home country, abducting/ kidnapping the couple's children and returning to the batterer's home country, stigmatizing divorced mothers and gaining custody based on cultural beliefs that children belong to their father.

Same-sex, same-gender domestic violence can include:

- Greater threats associated with outing a partner in communities where homosexuality is ostracized.

Abuse based on immigration status can include:

- Making false declarations to I.C.E. (formerly INS) about a partner's immigration status, claiming that she entered into a fraudulent marriage, and/or not proceeding with (green card) applications to regularize a spouse's status;

- Threats of deportation if she reports domestic violence;
- Withholding or hiding passports and other important documents;
- Being forced to accept a husband's existing relationships in the U.S. After marriage in the home country women sometimes have to contend with their husband's existing heterosexual or homosexual partner. The new wife's vulnerable immigration status forces her to accept whatever arrangements he insists upon;
- Trans-national abandonment, whereby untraceable husbands return alone to the U.S. on the pretext of filing immigration papers; and
- Relationships contracted through International Marriage Bureaus that become abusive because batterers serially marry and entrap women from other countries or abandon them after their fiancé visa expires within 3 months of arrival in the U.S.

Isolating socio-cultural barriers by batterers, systems & communities

- Systems barriers facing immigrant women, their lack of familiarity with systems and resources in the U.S., and community attitudes towards them are exploited by batterers and incorporated into their abuse;
- Women, particularly non-citizens and those with limited English proficiency face language, economic, racial, cultural, religious, professional, and/or identity-based barriers to social and legal services;
- The strong nexus of public disclosure and shame in many Asian communities is a barrier against seeking help;
- Covert or overt support and the lack of sanctions that accrue to batterers increase their impunity and entitlement to violence; and
- Community attitudes reinforce domestic violence by utilizing victim-blaming, silencing, shaming and rejecting battered women who speak up or seek help.

Implications for Custody Mediation

The implications listed below are based on experiences of and reports by Asian battered women to the providers and advocates serving them. All these issues need further study to be understood more clearly.

1. Assess for presence & effects of multiple batterers in an extended family home

- **Do not assume there is no domestic violence because the intimate partner is not abusive.** Battered women may be viewed as denying, minimizing or not co-operating because investigative questions assume that the intimate partner is the batterer. E.g., an evaluator may think a battered women is protecting her husband by saying he didn't harm her, whereas in fact her physical injuries were caused by her in-laws.
- **Explicitly gather additional information about who else is battering her.** Systems may respond inadequately, given their lack of understanding about multiple batterers. Evaluators therefore need to rely on getting this information directly as it may not appear in regular documents such as police or medical reports.

- **Do not assume that accompanying female or male relatives are part of a support system.**
Greater family collusion accompanies multiple abusers. Male or female women relatives from the extended family or the family of origin are not necessarily a battered woman's allies or friends. Even if they are not actively violent, they may collude, e.g., lying to the police that the victim was trying to commit suicide and the family was trying to stop her and make a protective intervention; or claiming that the victim is a bad mother.
- **Identify how multiple batterers or relatives compromised maternal authority during the relationship in order to assess how they could continue to do so post-separation.**
Given the evidence that batterers act to diminish maternal authority, members of the extended family may collude or actively participate in doing so. Cultural attitudes that stigmatize divorced women also stigmatize battered mothers who often find themselves, along with their children, exiled from community events and participation.
- **Assess children's fears of, and relationships to, extended family members**
Generally, the extended family home is viewed as an important, supportive structure for children, but with multiple perpetrators it is not.

2. Identify the impact of 'push' factors on battered mothers

- **Establish the severity of push factors, who applies them & how they affect decision-making.**
Push factors may be applied by family members whether they are physically abusive or not. Battered women's autonomy is often equated with making a decision to leave, but evaluators need to understand how push and pull factors affect her 'decisions'. Women experiencing push factors early on in the relationship will not be in a position to make decisions, this is more so if multiple batterers are exercising push factors.
- **Scrutinize allegations by a father and his family that the wife abandoned their children.**
Mothers' decisions about leaving without their children are influenced by push factors, manipulation by the batterer, and threats of deportation. The extended family may push the mother out so hard that she leaves without her kids and the family/husband claim abandonment. What may look like an inexplicable decision to leave without her children could in fact be a function of push factors exerted by a single batterer and reinforced by multiple batterers.
- **Assess risk of post-separation violence given push factors.**
The dangers of post-separation violence could differ depending on the extent of push factors and number of abusive individuals involved. Threats of violence can follow a woman in an attempt to maintain her silence. Or, if the husband and in-laws push her and her children out, it *could* mean less danger of post-separation violence. This may not be the case if only one party is pushing her out. This is an area needing greater study.

3. Arrange interpretation services for clients with Limited English Proficiency

- **Use professional interpreters for all parties with Limited English Proficiency at evaluation sessions and at proceedings.**
Arrange for certified or qualified interpreters prior to the evaluation session and be well informed about how to work with a language or sign interpreter. Do not have adult or child family members, friends, or other bi-lingual individuals interpret in an evaluation session or in court. Immigrant or refugee families who lack proficiency in English should not be considered uneducated or

disadvantaged at parenting; and greater credibility should not be attached to more acculturated fathers. Proceedings interpreters are separate from individual interpreters for both parties.

- **Utilize the Family Law Interpreter Program, California, to fund interpretation services**

This program is an initiative designed to provide assistance to trial courts in funding interpreter services for litigants with Limited English Proficiency in cases where domestic violence or elder abuse protective orders have been issued or sought, and in general family law cases. Courts may utilize program funds to provide interpreters in court hearings, family law facilitator sessions, court-connected self-help sessions, and family court services mediation sessions, and to pay for interpreter coordinator services.

4. Mitigate gender bias by examining the assumptions that contribute to it

The following assumptions often privilege fathers over mothers. Examining how they can affect custody decisions, allows mediators to correct for gender bias.

- **Battering fathers can still be good parents, but battered mothers may not.**

Recommendation: Identify the pre-separation parenting strategies used by battering fathers to evaluate how they might surface post-separation. Lundy Bancroft's research shows they tend to be authoritarian, neglectful, verbally abusive and undermining of maternal authority.

- **Children exposed to or witnessing domestic violence is a mother's failure to protect.**

Recommendation: Evaluate and provide data in your reports on the effects of witnessing the violent behavior of the abusive parent, e.g., ask a father to describe the effect of his violence on the children. ('Witnessing' should be understood broadly as exposure to violence, not merely being an eye or ear witness to an incident.) Almost all the research and literature on children exposed to domestic violence is about the effects of witnessing maternal abuse, essentially putting the onus for protection on mothers. But what is the effect of exposure to paternal brutality?

- **Good fathering is all too often proved by minimal levels of paternal responsibility, or assumed to exist in the extended family home.**

Recommendation: Elevate the standards for good fathering to equal those for good mothering. Ensure that standards of good fathering are applied to men despite their ability to provide children with the ostensible support structures of an extended family.